FEDERAL REGISTER

VOLUME 20 NUMBER 127

Washington, Thursday, June 30, 1955

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 28—COTTON STANDARDS

SUBPART C—STANDARDS

OFFICIAL COTTON LINTERS STANDARDS OF THE UNITED STATES

On May 13, 1955, a notice of proposed rule making was published in the FEDERAL REGISTER (20 F. R. 3259) regarding the proposed revision of the Official Standards for Grade and Color of American Cotton Linters (7 CFR 28.201 to 28.211, 28.251 to 28.257) pursuant to authority contained in the United States Cotton Standards Act (42 Stat. 1518, as amended; 7 U. S. C. 51 et seq.) Pursuant to this notice, public meetings were held in major cotton linters centers to allow interested persons to inspect the proposed revised standards and to submit data, views, or arguments concerning the proposed revision. A working group of representatives of major segments of the cotton linters industry also considered and approved the proposed revised standards during a meeting held in Washington, D. C. on May 9, 1955.

Provision also was made in said notice for amendment of the regulations to conform the provisions thereof with the revised standards. Such amendment will be published prior to the effective date of the revised standards.

After consideration of all relevant matters presented pursuant to the aforesaid notice and meetings, the following Official Cotton Linters Standards of the United States are hereby promulgated to supersede, effective July 1, 1956, §§ 28.201 through 28.211 and 28.251 through 28.257.

Sec.

AUTHORITY: §§ 28.201 to 28.209 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 6, 42 Stat. 1518; 7 U. S. C. 56.

§ 28.201 *Grade 1.* Grade 1 shall be be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 1, effective July 1, 1956."

§ 28.202 *Grade 2.* Grade 2 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 2, effective July 1, 1956."

§ 28.203 *Grade 3.* Grade 3 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 3, effective July 1, 1956."

§ 28.204 *Grade 4.* Grade 4 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 4, effective July 1, 1956."

§ 28.205 *Grade 5.* Grade 5 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 5, effective July 1, 1956."

§ 28.206 *Grade 6.* Grade 6 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 6, effective July 1, 1956."

§ 28.207 *Grade 7* Grade 7 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture

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FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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CFR SUPPLEMENTS

(For use during 1955)

The following Supplements are now available:

Titles 4–5 ($0.70)

Title 7· Parts 210–899 ($2.50)

Title 15 ($1.25)

Title 26: Parts 80–169 ($0.50)

Title 26: Part 300 to end and Title 27 ($1.25)

Title 50 ($0.55)

Previously announced: Title 3, 1954 Supp. ($1.75); Title 7· Parts 1–209 ($0.60); Part 900 to end ($2.25); Title 8 ($0.45); Title 9 ($0.65); Titles 10–13 ($0.50); Title 14: Parts 1–399 ($2.25); Part 400 to end ($0.65); Title 16 ($1.25); Title 17 ($0.55); Title 18 ($0.50); Title 19 ($0.40); Title 20 ($0.75); Titles 22–23 ($0.75); Title 24 ($0.75); Title 25 ($0.50); Titles 28–29 ($1.25); Titles 30–31 ($1.25); Title 32A, Revised December 31, 1954 ($1.50); Titles 35–37 ($0.75); Title 38 ($2.00); Titles 40–42 ($0.50); Titles 44–45 ($0.75); Title 49: Parts 1–70 ($0.60); Parts 71–90 ($0.75); Parts 91–164 ($0.50); Part 165 to end ($0.60)

Order from Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

in a container marked "Original Official Cotton Linters Standard of the United States, Grade 7, effective July 1, 1956."

§ 28.208 *Chemical Grade.* United States cotton linters which in grade are below Grade 7 shall be designated as "Chemical Grade."

§ 28.209 *Staple.* (a) The staple normal for each grade as illustrated in grades 1 through 7, §§ 28.201 to 28.207, shall be designated as staples 1, 2, 3, 4, 5, 6, and 7 respectively. In linters classification, the grade and staple shall be determined and designated separately.

(b) Cotton linters which in staple is below that illustrated in Grade 7, § 28.207, shall be designated as "Below 7" staple.

The standards in physical form standardize color and trash for the respective grades. Although as in the past each of the grade boxes illustrate staple normal for the grade, the Department plans to propose separate physical staple standards for linters at a later date.

Done at Washington, D. C., this 27th day of June 1955.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

[F. R. Doc. 55-5259; Filed, June 29, 1955; 8:55 a. m.]

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

SUBPART—UNITED STATES STANDARDS FOR BEETS [1]

On May 17, 1955, a notice of proposed rule making was published in the FEDERAL REGISTER (20 F. R. 3440) regarding a proposed revision of United States Standards for Beets.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Beets are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., 7 U. S. C. 1621 et seq.).

STYLES

GRADES

UNCLASSIFIED

TOLERANCES

APPLICATION OF TOLERANCES

STANDARD BUNCHING

DEFINITIONS

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

AUTHORITY: §§ 51.375 to 51.394 issued under sec. 205, 60 Stat. 1090, 7 U. S. C. 1624.

STYLES

§ 51.375 *Bunched beets.* "Bunched beets" means beets which are tied in bunches. The tops shall be full length or removed to not less than 6 inches.

§ 51.376 *Beets with short-trimmed tops.* "Beets with short-trimmed tops" means, unless otherwise specified, beets showing leafstems ranging to not more than 4 inches in length.

§ 51.377 *Topped beets.* "Topped beets" means beets with tops removed to not more than one-half inch in length.

GRADES

§ 51.378 *U S. No. 1.* "U. S. No. 1" consists of beets of similar varietal characteristics the roots of which are well trimmed, firm, fairly smooth, fairly well shaped, fairly clean and free from soft rot and free from damage caused by cuts, freezing, growth cracks, disease, rodents or insects, or mechanical or other means. Bunched beets or beets with short-trimmed tops shall have tops which are fresh and free from decay and free from damage caused by discoloration, freezing, disease, insects, or mechanical or other means.

(a) Unless otherwise specified, the diameter of each beet shall be not less than 1½ inches. (See § 51.381.)

§ 51.379 *U S. No. 2.* "U. S. No. 2" consists of beets of similar varietal characteristics the roots of which are well trimmed, firm, not excessively rough, not seriously misshapen and which are free from soft rot and free from serious damage caused by cuts, dirt, freezing, growth cracks, disease, rodents or insects, or mechanical or other means. Bunched beets or beets with short-trimmed tops shall have tops which are fresh and free from decay and free from damage caused by discoloration, freezing, disease, insects, or mechanical or other means.

(a) Unless otherwise specified, the diameter of each beet shall be not less than 1½ inches. (See § 51.381.)

UNCLASSIFIED

§ 51.380 *Unclassified.* "Unclassified" consists of beets which have not been classified in accordance with either of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards, but is provided as a designation to show that no grade has been applied to the lot.

TOLERANCES

§ 51.381 *Tolerances.* In order to allow for variations incident to proper grading and handling, the following tolerances shall be permitted:

(a) *For bunched beets*—(1) *For defects of roots.* 10 percent, by count, for roots in any lot which fail to meet the requirements of the grade: *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including therein not more than 1 percent for soft rot;

(2) *For defects of tops.* 10 percent, by count, for bunches with tops in any lot which fail to meet the requirements of the grade, including therein not more than 5 percent for decay;

(3) *For off-size roots.* 5 percent, by count, for roots in any lot which are smaller than the specified minimum diameter, and 10 percent, by count, for roots which are larger than any specified maximum diameter; and

(4) *For off-length tops.* 5 percent, by count, for bunches with tops in any lot which fail to meet the requirements of the style.

(b) *For beets with short-trimmed tops or topped beets*—(1) *For defects of roots.* 10 percent, by weight, for roots in any lot which fail to meet the requirements of the grade: *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including therein not more than 1 percent for soft rot;

(2) *For defects of tops.* 10 percent, by weight for roots with tops in any lot which fail to meet the requirements of the grade, including therein not more than 5 percent for decay;

(3) *For off-size roots.* 5 percent, by weight, for roots in any lot which are smaller than the specified minimum diameter, and 10 percent, by weight, for roots which are larger than any specified maximum diameter; and,

(4) *For off-length tops.* 10 percent, by weight, for beets with tops in any lot which fail to meet the requirements of the style specified.

APPLICATION OF TOLERANCES

§ 51.382 *Application of tolerances.* (a) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade:

(1) For packages which contain more than 5 pounds and a tolerance of 10 percent or more is provided, individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 5 pounds and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified except that at least one defective and one off-size specimen shall be permitted in any package; and,

(2) For packages which contain 5 pounds or less, individual packages in any lot are not restricted as to the percentage of defects and off-size: *Provided,* That not more than one beet which is frozen or affected by soft rot may be permitted in any package.

STANDARD BUNCHING

§ 51.383 *Standard bunching.* (a) Standard bunches of beets shall be fairly uniform in size and each bunch of beets shall weigh not less than 1 pound and contain at least 3 beets.

(b) Not more than 10 percent of the bunches in any lot may fail to meet the requirements for "Standard Bunching"

DEFINITIONS

§ 51.384 *Well trimmed.* "Well trimmed" means that unattractive secondary rootlets have been removed and that any objectionably long or coarse tail-like part of the root has been cut off.

§ 51.385 *Firm.* "Firm" means that the beet root is not soft, flabby or shriveled.

§ 51.386 *Fairly smooth.* "Fairly smooth" means that the root is not rough or ridged to the extent that the appearance is materially affected. Very slight roughness over the crown or very slight pitting caused by the shedding of dead leaves shall not be considered as materially affecting the appearance.

§ 51.387 *Fairly well shaped.* "Fairly well shaped" means that the root is not misshapen to the extent that the appearance is materially affected.

§ 51.388 *Fairly clean.* "Fairly clean" means that the individual root is reasonably free from dirt, stain or other foreign matter, and that the general appearance of the roots in the container is not more than slightly affected.

§ 51.389 *Damage.* "Damage" means any defect which materially affects the appearance, or the edible or shipping quality of the individual beet root, or the general appearance of the beet roots in the container, or causes a loss of more than 5 percent, by weight, in the ordinary preparation for use, or which materially affects the appearance or shipping quality of the tops. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Growth cracks when not shallow and not smooth or when the appearance is materially affected; and,

(b) Discoloration when yellowing or other discoloration of the tops materially affect the appearance of the bunch. The appearance of bunches with tops having slight discoloration such as yellowing, browning, or other abnormal color affecting a few leaves shall not be considered materially affected.

§ 51.390 *Fresh.* "Fresh" means that the tops are not badly wilted.

§ 51.391 *Diameter* "Diameter" means the greatest dimension of the root measured at right angles to a line running from the crown to the base of the root.

§ 51.392 *Excessively rough.* "Excessively rough" means that the root is rough or ridged to the extent that the appearance is seriously affected.

§ 51.393 *Seriously misshapen.* "Seriously misshapen" means that the root is misshapen to the extent that the appearance is seriously affected.

§ 51.394 *Serious damage.* "Serious damage" means any defect which seriously affects the appearance, or the edible or shipping quality of the individual beet, or the general appearance of the beets in the container, or causes a loss of more than 20 percent, by weight, in the ordinary preparation for use.

The United States Standards for Beets contained in this subpart shall become effective 30 days after publication hereof in the FEDERAL REGISTER, and will there-

upon supersede the United States Standards for Bunched Beets which have been in effect since November 4, 1950 (18 F. R. 7082) the United States Standards for Topped Beets which have been in effect since May 1, 1934, and the United States Standards for Beets with Short-trimmed Tops which have been in effect since May 13, 1942.

Dated: June 27, 1955.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 55-5255; Filed, June 29, 1955; 8:54 a. m.]

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

SUBPART—UNITED STATES STANDARDS FOR TURNIPS OR RUTABAGAS[1]

On May 17, 1955, a notice of proposed rule making was published in the FEDERAL REGISTER (20 F R. 3441) regarding a proposed revision of United States Standards for Turnips or Rutabagas.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Turnips or Rutabagas are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., 7 U. S. C. 1621 et seq.)

STYLES

Sec.
51.2610 Bunched turnips.
51.2611 Turnips with short-trimmed tops.
51.2612 Topped turnips or rutabagas.

GRADES

51.2613 U. S. No. 1.
51.2614 U. S. No. 2.

UNCLASSIFIED

51.2615 Unclassified.

TOLERANCES

51.2616 Tolerances.

APPLICATION OF TOLERANCES

51.2617 Application of tolerances.

STANDARD BUNCHING

51.2618 Standard bunching.

DEFINITIONS

51.2619 Similar varietal characteristics.
51.2620 Well trimmed.
51.2621 Firm.
51.2622 Fairly smooth.
51.2623 Fairly well shaped.
51.2624 Fairly clean.
51.2625 Damage.
51.2626 Fresh.
51.2627 Diameter.
51.2628 Excessively rough.
51.2629 Seriously misshapen.
51.2630 Serious damage.

AUTHORITY: §§ 51.2610 to 51.2630 issued under sec. 205, 60 Stat. 1090, 7 U. S. C. 1624.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

STYLES

§ 51.2610 *Bunched turnips.* "Bunched turnips" means turnips which are tied in bunches. The tops shall be full length or removed to not less than 6 inches.

§ 51.2611 *Turnips with short-trimmed tops.* "Turnips with short-trimmed tops" means, unless otherwise specified, turnips showing leafstems ranging to not more than 4 inches in length.

§ 51.2612 *Topped turnips or rutabagas.* "Topped turnips or rutabagas" means turnips or rutabagas with tops removed to not more than three-fourths inch in length.

GRADES

§ 51.2613 *U. S. No. 1.* "U. S. No. 1" consists of turnips or rutabagas of similar varietal characteristics the roots of which are well trimmed, firm, fairly smooth, fairly well shaped, fairly clean, and free from soft rot and free from damage caused by cuts, discoloration, freezing, growth cracks, pithiness, woodiness, watercore, dry rot, other disease, insects or rodents, or mechanical or other means. Bunched turnips, or turnips with short-trimmed tops shall have tops which are fresh and free from decay and free from damage caused by discoloration, freezing, disease, insects, or mechanical or other means.

(a) Unless otherwise specified, the diameter of each turnip or rutabaga shall be not less than 1¾ inches. (See § 51.2616.)

§ 51.2614 *U. S. No. 2.* "U. S. No. 2" consists of turnips or rutabagas of similar varietal characteristics the roots of which are well trimmed, firm, not excessively rough, not seriously misshapen and which are free from soft rot and free from serious damage caused by cuts, dirt, discoloration, freezing, growth cracks, pithiness, woodiness, watercore, dry rot, disease, insects or rodents, or mechanical or other means. Bunched turnips or turnips with short-trimmed tops shall have tops which are fresh and free from decay and free from damage caused by discoloration, freezing, disease, insects, or mechanical or other means.

(a) Unless otherwise specified, the diameter of each turnip or rutabaga shall be not less than 1¾ inches. (See § 51.2616).)

UNCLASSIFIED

§ 51.2615 *Unclassified.* "Unclassified" consists of turnips or rutabagas which have not been classified in accordance with either of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards, but is provided as a designation to show that no grade has been applied to the lot.

TOLERANCES

§ 51.2616 *Tolerances.* In order to allow for variations incident to proper grading and handling, the following tolerances shall be permited:

(a) *For bunched turnips*—(1) *For defects of roots.* 10 percent, by count, for roots in any lot which fail to meet the requirements of the grade: *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including therein not more than 1 percent for soft rot;

(2) *For defects of tops.* 10 percent, by count, for bunches with tops in any lot which fail to meet the requirements of the grade, including therein not more than 5 percent for decay;

(3) *For off-size roots.* 5 percent, by count, for roots in any lot which are smaller than the specified minimum diameter, and 10 percent, by count, for roots which are larger than any specified maximum diameter; and,

(4) *For off-length tops.* 5 percent, by count, for bunches with tops in any lot which fail to meet the requirements of the style.

(b) *For turnips with short-trimmed tops or topped turnips or rutabagas*—(1) *For defects of roots.* 10 percent, by weight, for roots in any lot which fail to meet the requirements of the grade: *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including therein not more than 1 percent for soft rot;

(2) *For defects of tops.* 10 percent, by weight, for roots with tops in any lot which fail to meet the requirements of the grade, including therein not more than 5 percent for decay·

(3) *For off-size roots.* 5 percent, by weight, for roots in any lot which are smaller than the specified minimum diameter, and 10 percent, by weight, for roots which are larger than any specified maximum diameter; and,

(4) *For off-length tops.* 10 percent, by weight, for turnips or rutabagas with tops in any lot which fail to meet the requirements of the style.

APPLICATION OF TOLERANCES

§ 51.2617 *Application of tolerances.* (a) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade:

(1) For packages which contain more than 5 pounds and a tolerance of 10 percent or more is provided, individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 5 pounds and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified except that at least one defective and one off-size specimen shall be permitted in any package; and,

(2) For packages which contain 5 pounds or less, individual packages in any lot are not restricted as to the percentage of defects and off-size: *Provided,* That not more than one turnip or rutabaga which is frozen or affected by soft rot may be permitted in any package.

STANDARD BUNCHING

§ 51.2618 *Standard bunching.* (a) Standard bunches of turnips shall be

fairly uniform in size and each bunch of turnips shall weigh not less than 1 pound and contain at least 3 turnips.

(b) Not more than 10 percent of the bunches in any lot may fail to meet the requirements for "Standard Bunching"

DEFINITIONS

§ 51.2619 *Similar varietal characteristics.* "Similar varietal characteristics" means that the turnips or rutabagas in any package shall be of similar color and shape. For example, yellow fleshed varieties shall not be mixed with white fleshed varieties, and flat, globe, or long varieties shall not be mixed in the same package.

§ 51.2620 *Well trimmed.* "Well trimmed" means that unattractive secondary rootlets have been removed, and that any objectionably long or coarse tail-like part of the root has been cut off.

§ 51.2621 *Firm.* "Firm" means that the root is not soft, flabby or shriveled.

§ 51.2622 *Fairly smooth.* "Fairly smooth" means that the root is not rough or ridged to the extent that the appearance is materially affected.

§ 51.2623 *Fairly well shaped.* "Fairly well shaped" means that the root is not misshapen to the extent that the appearance is materially affected.

§ 51.2624 *Fairly clean.* "Fairly clean" means that the individual root is reasonably free from dirt or other foreign matter, and that the general appearance of the roots in the container is not more than slightly affected.

§ 51.2625 *Damage.* "Damage" means any defect which materially affects the appearance, or the edible or shipping quality of the individual turnip or rutabaga root or the general appearance of the turnips or rutabagas in the container, or causes a loss of more than 5 percent, by weight, in the ordinary preparation for use, or which materially affects the appearance or shipping quality of the tops. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Cuts when discolored, rough or deep, or when materially affecting the appearance of the turnip or rutabaga;

(b) Growth cracks or air cracks when discolored or deep, or when the appearance is materially affected;

(c) Pithiness when the edible quality is materially affected by pith;

(d) Insects or rodents when the injury to the root materially affects the appearance of the turnip or rutabaga or causes a loss of more than 5 percent, by weight, or the edible quality of the root is materially affected; or when the tops are injured to the extent that the appearance of the bunch is materially affected; and

(e) Discoloration when yellowing or other discoloration of the tops materially affect the appearance of the bunch. The appearance of bunches of tops having slight discoloration such as yellowing, browning, or other abnormal color affecting a few leaves shall not be considered materially affected.

§ 51.2626 *Fresh.* "Fresh" means that the tops are of normal green color and are not badly wilted.

§ 51.2627 *Diameter* "Diameter" means the greatest dimension of the root measured at right angles to a line running from the crown to the base of the root.

§ 51.2628 *Excessively rough.* "Excessively rough" means that the root is rough or ridged to the extent that the appearance is seriously affected.

§ 51.2629 *Seriously misshapen.* "Seriously misshapen" means that the root is forked or misshapen to the extent that the appearance is seriously affected.

§ 51.2630 *Serious damage.* "Serious damage" means any defect which seriously affects the appearance, or the edible or shipping quality of the individual turnip or rutabaga or the general appearance of the turnips or rutabagas in the container, or causes a loss of more than 20 percent, by weight, in the ordinary preparation for use.

The united States Standards for Turnips or Rutagabas contained in this subpart shall become effective 30 days after publication hereof in the FEDERAL REGISTER, and will thereupon supersede the United States Standards for Bunched Turnips issued August 9, 1927, and reissued January 18, 1943, and United States Standards for Topped Turnips or Rutabagas, issued March 21, 1935, and reissued September 27, 1949.

Dated: June 27, 1955.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator
Marketing Services.

[F. R. Doc. 55-5256; Filed, June 29, 1955; 8:55 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF STATE

Effective upon publication in the FEDERAL REGISTER, paragraph (c) (2) is added to § 6.102, subparagraph (9) is added to § 6.302 (o) the headnote of paragraph (q) of § 6.302 is amended to read "Office of the Controller", subparagraphs (2) (4) (5) and (6) of paragraph (q) are amended, and paragraph (r) (1) is added as set out below.

§ 6.102 *Department of State.* * * *

(c) *Office of the Special Assistant, Intelligence.* * * *

(2) Two professional positions in the Division of Intelligence Acquisition and Distribution.

§ 6.302 *Department of State.* * * *

(o) *Policy Planning Staff.* * * *

(9) One Alternate Department Representative on the National Security Council Planning Board.

(q) *Office of the Controller* * * *

(2) One Private Secretary to the Controller.

* * * * *

(4) The Assistant Controller for Personnel.

(5) One Private Secretary to the Assistant Controller for Personnel.

(6) One Confidential Assistant to the Controller.

(r) *Office of the Deputy Under Secretary for Administration.* (1) One Confidential Assistant to the Deputy Under Secretary.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, 18 F. R. 1823, 3 CFR, 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 55-5241; Filed, June 29, 1955; 8:52 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF THE INTERIOR

Effective upon publication in the FEDERAL REGISTER, subparagraph (5) is added to § 6.310 (c) as set out below.

§ 6.310 *Department of the Interior*

* * *

(c) *Fish and Wildlife Service.* * * *

(5) One Associate Director.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, 18 F. R. 1823, 3 CFR, 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 55-5240; Filed, June 29, 1955; 8:51 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[File No. 21-128]

PART 40—ROLL AND MACHINE TICKET INDUSTRY

ORDER RESCINDING RULES

Whereas, on August 24, 1931, the Commission, promulgated trade practice rules for the Roll and Machine Ticket Industry, which were codified in the Code of Federal Regulations (16 CFR Part 40) and

Whereas, it appears that said rules for this industry do not in some respects accurately reflect existing requirements of law, and members of this industry generally are not interested in having such rules revised; and

Whereas, under the circumstances proceedings for revision of the rules for this industry do not appear to be warranted;

It is ordered, That the said rules be and the same are hereby rescinded.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46)

Issued: June 27, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 55-5262; Filed, June 29, 1955; 8:56 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter H—Internal Revenue Practice

PART 601—STATEMENT OF PROCEDURAL RULES

Subpart A—General Procedural Rules

Subpart B—Rulings and Other Specific Matters

Subpart C—Provisions Relating to Alcohol, Tobacco, and Certain Firearms [Reserved]

Subpart D—Provisions Special to Certain Employment and Excise Taxes

Subpart E—Conference and Practice Requirements

Subpart F—Rules, Regulations, and Forms

Subpart G—Records

AUTHORITY: §§ 601.101 to 601.702 issued under R. S. 161; 5 U. S. C. 22.

SUBPART A—GENERAL PROCEDURAL RULES

§ 601.101 *Introduction*—(a) *General.* The Internal Revenue Service is a branch of the Treasury Department under the immediate direction of the Commissioner of Internal Revenue. The Commissioner has general superintendence of the assessment and collection of all taxes imposed by any law providing internal revenue and also of other functions relating to the administration and enforcement of laws applicable to alcohol and certain firearms which are in addition to those related to taxes. The Internal Revenue Service is the agency by which these functions are performed. Generally, the procedural rules of the Service are based on the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954, and the procedural rules in this part apply to the taxes imposed by both Codes except to the extent specifically stated or where the procedure under one Code is incompatible with the procedure under the other Code. References to sections of the Code are references to the Internal Revenue Code of 1954, unless otherwise expressly indicated.

(b) *Scope.* This part sets forth the procedural rules of the Internal Revenue Service respecting all taxes, except alcohol, tobacco, and certain firearms taxes, administered by the Service, and supersedes the previously published statement (26 CFR (1939) Parts 600 and 601) with respect to such procedural rules, excepting that part of such statement dealing with alcohol, tobacco, and certain firearms taxes. The procedural rules of the Service with respect to alcohol, tobacco, and certain firearms taxes will be published at a later date as Subpart C to reflect regulatory changes effective January 1, 1955. Subpart A provides a descriptive statement of the general course and method by which the Service's functions are channeled and determined, insofar as such functions relate generally to the assessment and collection of internal revenue taxes. Certain provisions special to particular taxes are separately described in Subpart D. Conference and practice requirements of the Internal Revenue Service are contained in Subpart E. Specific matters not generally involved in the assessment and collection functions are separately described in Subpart B. A description of the rule-making functions of the Treasury Department with respect to internal revenue tax matters, is contained in Subpart F. Subpart G relates to matters of official record in the Internal Revenue Service and the extent to which records and documents are subject to publication or open to public inspection. This part does not contain a detailed discussion of the substantive provisions pertaining to any particular tax or the procedures relating thereto, and for such information it is necessary that reference be made to the applicable provisions of law and the regulations promulgated thereunder. The regulations relating to the taxes administered by the Service are contained in Titles 26 and 27 of the Code of Federal Regulations.

§ 601.102 *Classification of taxes collected by the Internal Revenue Service*—(a) *Principal divisions.* Internal revenue taxes fall generally into the following principal divisions:

(1) Taxes collected by assessment.

(2) Taxes collected by means of revenue stamps.

(b) *Assessed taxes.* Taxes collected principally by assessment fall into the following two main classes:

(1) Taxes within the jurisdiction of the Tax Court of the United States. These include:

(i) Income and profits taxes imposed by chapters 1 and 2 of the 1939 Code and taxes imposed by subtitle A of the 1954 Code, relating to income taxes.

(ii) Estate taxes imposed by chapter 3 of the 1939 Code and chapter 11 of the 1954 Code.

(iii) Gift tax imposed by chapter 4 of the 1939 Code and chapter 12 of the 1954 Code.

(2) Taxes not within the jurisdiction of the Tax Court of the United States. Taxes not imposed by chapter 1, 2, 3, or 4 of the 1939 Code or subtitle A or chapter 11 or 12 of the 1954 Code are within this class, such as:

(i) Employment taxes,

(ii) Various sales taxes collected by return,

(iii) Miscellaneous excise taxes collected by return, and

(iv) Miscellaneous excise taxes collected by sale of revenue stamps.

(3) The difference between these two main classes is that only taxes described in subparagraph (1) of this paragraph, i. e., those within the jurisdiction of the Tax Court, may be contested before an independent tribunal prior to payment. Taxes of both classes may be contested by first making payment, filing claim for refund, and then bringing suit to recover if the claim is disallowed or no decision is rendered thereon within six months.

(c) *Stamp taxes.* Taxes collected by means of revenue stamps may in special circumstances be collected by assessment, but references hereinafter to the assessment process do not contemplate taxes ordinarily collectible by means of stamps, except as specially stated. For provisions special to taxes collected by means of revenue stamps, see § 601.404. Taxes collectible by assessment may be collected by suit without assessment, but this is seldom done.

§ 601.103 *Summary of general tax procedure*—(a) *Collection procedure.* The Federal tax system is basically one of self-assessment. Each taxpayer (or person required to collect and pay over the tax) is required to file a prescribed form of return which shows the facts upon which tax liability may be determined and assessed. Generally, the taxpayer must compute the tax due on the return and make payment thereof on or before the due date for filing the return. If the taxpayer fails to pay the tax when due, the district director of internal revenue issues a notice and demands payment within 10 days from the date of the notice. In the case of wage earners and nonresident aliens, the income tax is collected in large part through withholding at the source. Another means of collecting the income tax is through payments on declarations of estimated tax which are required by law to be filed by certain taxpayers whose gross income for the taxable year may be expected to exceed a specified amount. For taxable years ending on or after December 31, 1955, the law requires a declaration of

estimated tax by certain corporations. See section 6016 of the Code. Neither withholding nor a declaration of estimated tax relieves a taxpayer from the duty of filing a return otherwise required. Certain excise taxes are collected by the sale of internal revenue stamps.

(b) *Examination and determination of tax liability.* After the returns are filed in the office of the district director of internal revenue, they are sorted, classified, and processed. Many of these returns are selected for examination. If adjustments are proposed with which the taxpayer does not agree, he is ordinarily accorded an opportunity to discuss the proposed adjustments (except with respect to mathematical errors) in an informal conference in the district director's office. If this informal conference results in agreement on the proposed adjustments, the taxpayer is requested to execute an agreement form. If the tax involved is an income, profits, estate, or gift tax, and if the taxpayer waives restrictions on the assessment and collection of the tax (see § 601.105 (b)) the deficiency will be immediately assessed.

(c) *Disputed liability*—(1) *General.* If the informal conference does not result in agreement on the adjustments proposed to be made, the taxpayer is given an opportunity to submit a protest in writing, stating under oath the facts on which he relies and the grounds for his contention that the adjustments are not proper. Following review of the protest, the case will be referred to the Appellate Division of the region and the taxpayer may also be accorded a conference in the Appellate Division. The determination of tax liability by the Appellate Division is final insofar as the taxpayer's appellate rights within the Service are concerned.

(2) *Petition to the Tax Court of the United States.* In the case of income, profits, estate and gift taxes, before a deficiency may be assessed a statutory notice of deficiency (commonly called a "90-day letter") must be sent to the taxpayer by registered mail unless the taxpayer waives this restriction on assessment. The taxpayer may then file a petition for a redetermination of the proposed deficiency with the Tax Court of the United States within 90 days from the date of the mailing of the statutory notice. If the notice is addressed to a person outside the States of the Union and the District of Columbia, the period within which a petition may be filed in the Tax Court is 150 days in lieu of 90 days. In other words, the taxpayer has the right in respect of these taxes to contest any proposed deficiency before an independent tribunal prior to assessment or payment of the deficiency. Unless the taxpayer waives the restrictions on assessment and collection after the date of the mailing of the statutory notice, no assessment or collection of a deficiency (not including the correction of a mathematical error) may be made in respect of these taxes until the expiration of the applicable period or, if a petition is filed with the Tax Court, until the decision of the Court has become final. If, however, the taxpayer makes a payment with respect to a deficiency, the amount of such payment may be assessed. See, however, § 601.105 (h) If the taxpayer fails to file a petition with the Tax Court within the applicable period, the deficiency will be assessed upon the expiration of such period and notice and demand for payment of the amount thereof will be mailed to the taxpayer by the district director of internal revenue. If the taxpayer files a petition with the Tax Court, the entire amount redetermined as the deficiency by a final decision of the Tax Court will be assessed and is payable upon notice and demand from the district director. There are no restrictions on the assessment and collection of the amount of any deficiency determined by the Tax Court, and a petition for review of the Court's decision will not stay the assessment and collection of the deficiency so determined, unless on or before the time the petition for review is filed the taxpayer files with the Tax Court a bond in a sum fixed by the Court not exceeding twice the portion of the deficiency in respect of which the petition for review is filed. No part of an amount determined as a deficiency but disallowed as such by a decision of the Tax Court which has become final may be assessed or collected by levy or by proceeding in court with or without assessment.

(3) *Claims for refund.* After payment of the tax a taxpayer may, within the applicable period of limitations, contest the assessment by filing with the district director a claim for refund of all or any part of the amount paid, except with respect to certain taxes determined by the Tax Court, the decision of which has become final. If the claim is allowed, the overpayment of tax and allowable interest thereon will be credited against other liabilities of the taxpayer, or will be refunded to the taxpayer. Generally, if the claim for refund is rejected in whole or in part, the taxpayer is notified of the rejection by registered mail. He may then bring suit in the United States District Court or in the United States Court of Claims for recovery of the tax. Suit may not be commenced before the expiration of six months from the date of filing of the claim for refund, unless a decision is rendered thereon within that time, nor after the expiration of two years from the date of mailing by registered mail to the taxpayer of a notice of the disallowance of the part of the claim to which the suit relates. Under the 1954 Code, the 2-year period of limitation for bringing suit may be extended for such period as may be agreed upon in a properly executed Form 907. Also, under the 1954 Code, if the taxpayer files a written waiver of the requirement that he be sent a notice of disallowance, the 2-year period for bringing suit begins to run on the date such waiver is filed. See section 6532 (a) of the Code.

§ 601.104 *Collection functions*—(a) *Collection methods*—(1) *Returns.* Generally, an internal revenue tax assessment is based upon a return required by law or regulations to be filed by the taxpayer upon which he himself computes the tax in the manner indicated by the return. If a taxpayer fails to make a return it may be made for him by a district director, revenue agent, or other duly authorized officer or employee. See section 6020 of the Code and the regulations thereunder. Returns must be made on the forms prescribed by the Internal Revenue Service. Forms are obtainable at the principal and branch offices of district directors of internal revenue. District directors commonly mail forms to persons who they have reason to believe may be required to file returns, but failure to receive a form does not excuse failure to comply with the law or regulations requiring a return. Returns, supplementary returns, statements or schedules and the time for filing them may sometimes be prescribed by regulations issued under authority of law by the Commissioner with the approval of the Secretary of the Treasury. In the case of certain individual income taxpayers having gross income not exceeding an amount prescribed by law and consisting of income from specified sources, a special form (Form 1040A) is prescribed upon which the taxpayer may set forth the information necessary to a determination of his tax liability, and the district director will compute the tax due and mail to the taxpayer a notice and demand for payment. A husband and wife may make a single income tax return jointly. Certain affiliated groups of corporations may file consolidated income tax returns. See section 1501 of the Code and the regulations thereunder.

(2) *Withholding of tax at source.* Withholding at the source of income payments is an important method used in collecting taxes. For example, in the case of wage earners, the income tax is collected in large part through the withholding by employers of taxes on wages paid to their employees. The tax withheld at the source on wages is applied as a credit in payment of the individual's income tax liability for the taxable year. In no case does withholding of the tax relieve an individual from the duty of filing a return otherwise required by law. The chief means of collecting the income tax due from nonresident alien individuals and foreign corporations not engaged in trade or business within the United States is the withholding of the tax by persons paying or remitting the income to the recipients. The tax withheld is allowed as a credit in payment of the tax imposed on such nonresident alien individuals and foreign corporations.

(3) *Declarations of estimated tax.* Any individual who may reasonably expect to receive gross income for the taxable year from wages or from sources other than wages, in excess of amounts specified by law, is required to file a declaration of estimated income tax. Payments of estimated tax are applied in payment of the tax for the taxable year. A husband and wife may make a single declaration jointly, and the amount of the estimated tax paid on the declaration may be applied in payment of the income tax liability of either spouse in any proportion they may specify. For taxable years ending on or after December 31, 1955, the law requires a declaration of estimated tax by certain

corporations. See section 6016 of the Code.

(4) *Collection by sale of revenue stamps.* Certain taxes are collected by sale of revenue stamps. These taxes fall into three general classes: Documentary stamp taxes, commodity stamp taxes, and occupational stamp taxes. The documentary and commodity stamp taxes are paid by having affixed to the document, memorandum of sale, policy, package, container, etc., in respect to which the tax is imposed, internal revenue stamps in the amount equal to the tax due and by cancelling such stamps in the manner prescribed. Payment of occupational taxes is evidenced by posting or displaying a special occupational tax stamp on the premises where the business is operated. In certain situations where it is not practicable to collect the tax by stamp, for example, where the instrument or commodity subject to stamp tax is no longer in existence or for other reasons cannot be stamped or where it is discovered that an occupational stamp tax was due for a prior taxable year, the tax may be collected by assessment. For special provisions applicable to stamp taxes, see § 601.404.

(5) *Collection of tax by another person.* Certain miscellaneous excise taxes are imposed on the person making the payment for admission, telephone service, transportation, and other facilities or services. Such taxes are required to be collected by the theater, telephone company, railroad, or other person receiving the payment. All taxes collected in this manner are held by the collecting agent in trust for the United States until paid over to the district director of internal revenue. If the person from whom the tax is required to be collected refuses to pay it or if for any reason it is impossible for the collecting agency to collect the tax from such person, the collecting agency is required to report the facts to the district director of internal revenue and the tax will then be collected by direct assessment against the person failing or refusing to pay the tax to the collecting agent. For special provisions applicable to excise taxes collected by another person, see § 601.403.

(b) *Extension of time for filing returns.* Under certain circumstances the Commissioner is authorized to grant a reasonable extension of time for filing a return or declaration. This authority has been delegated to the several district directors of internal revenue. The maximum period for extensions cannot be in excess of six months, except in the case of taxpayers who are abroad. With an exception in the case of estate tax returns, written application for extension must be received by the district director on or before the date prescribed by law for filing the return or declaration. On or before the last date prescribed by law for filing its income tax return, a corporation may obtain an automatic three-month extension of time for filing the income tax return by filing Form 7004 and paying an estimated amount not less than would be required as the first installment of tax due should the corporation elect to pay the tax in installments. An extension of time for filing a declaration of estimated tax (generally limited to a period of not more than 15 days) automatically extends the time for paying the estimated tax (without interest) for the same period.

(c) *Enforcement procedure*—(1) *General.* Taxes shown to be due on returns, deficiencies in taxes, and additional or delinquent taxes to be assessed, and penalties, interest and additions to taxes are recorded by the district director of internal revenue as "assessments" Under the law an assessment is prima facie correct for all purposes, the burden to disprove its correctness being upon the taxpayer. Upon assessment, the district director is required to effect collection of any amounts which remain due and unpaid after the expiration of 10 days from the date of notice and demand for their payment.

(2) *Levy.* If a taxpayer neglects or refuses to pay any tax within 10 days after notice and demand for its payment, it is lawful for the district director to make collection by levy on the taxpayer's property. See section 6331 of the Code. No suit for the purpose of restraining the assessment or collection of an internal revenue tax may be maintained in any court, except to restrain the assessment or collection of income, estate, or gift taxes during the period within which the assessment or collection of deficiencies in such taxes is prohibited. See section 7421 of the Code. Property taken under authority of any revenue law of the United States is irrepleviable. United States Revised Statutes, section 934; 28 U. S. C. 747.

(3) *Liens.* The United States' claim for taxes is a lien on the taxpayer's property. Such lien is not valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice has been filed by the district director. Despite such filing, the lien is not valid with respect to certain securities as against any mortgagee, pledgee or purchaser of such securities, for an adequate and full consideration in money or money's worth, who is without notice or knowledge of the existence of such lien. A valid lien generally continues until the liability is satisfied or becomes unenforceable by reason of lapse of time. A certificate of release of lien may be issued upon the taxpayer furnishing proper bond in lieu of the lien, or when the liability is satisfied or becomes unenforceable by reason of lapse of time. The Code also contains additional provisions with respect to liens in the case of estate and gift taxes. For the specific rules with respect to liens, see subchapter C of chapter 64 of the Code and the regulations thereunder.

(4) *Penalties.* In the case of failure to file a return within the prescribed time, a certain percentage of the amount of tax is, pursuant to statute, added to the tax unless the failure to file the return within the prescribed time is shown to the satisfaction of the district director to be due to reasonable cause and not to willful neglect. Civil penalties are also imposed for fraudulent returns; in the case of income and gift taxes, for intentional disregard of rules and regulations or negligence; and additions to the tax are imposed for the failure to comply with the requirements of law with respect to the estimated income tax. See chapter 68 of the Code. Criminal penalties are imposed for willful failure to pay, collect, or truthfully account for and pay over tax, willfully attempting to evade or defeat tax or the payment thereof, or willful failure to make returns, keep records, supply information, etc. See chapter 75 of the Code.

(5) *Informants' rewards.* Payments to informers are authorized for detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws. See section 7623 of the Code and the regulations thereunder. Claims for rewards should be made on Form 211. Relevant facts should be stated on the form, which after execution should be forwarded to the district director of internal revenue for the district in which the informer resides, or to the Commissioner of Internal Revenue, Washington 25, D. C.

§ 601.105 *Examination of returns and claims for refund, credit or abatement; determination of correct tax liability*—(a) *Processing of returns.* When the returns are filed in the office of the district director of internal revenue, they are received by the Collection Division of the office and are checked first for form, execution, and mathematical accuracy. Mathematical errors are corrected and a correction notice of any such error is sent to the taxpayer. Notice and demand is made for the payment of any deficiency so resulting, or refund is made of any overpayment. All returns are then sorted by the Collection Division according to such classifications and subclassifications as are prescribed by the uniform management directives of the Commissioner. The purpose of these classifications is to facilitate prompt processing of returns showing refunds due and returns received with insufficient or no remittance, the selection of returns for audit, and the compilation of income and other statistics.

(b) *Examination of returns*—(1) *General.* The original examination of income, profits, estate, gift, excise, and employment tax returns is a primary function of internal revenue agents in the Audit Division of the office of each district director of internal revenue. Such internal revenue agents are organized in groups, each of which is under the immediate supervision of a group supervisor designated by the district director. Revenue agents and collection officers (and such other officers or employees of the Internal Revenue Service as may be designated for this purpose by the Commissioner) are authorized to examine any books, papers, records, or memoranda bearing upon matters required to be included in Federal tax returns and to take testimony relative thereto and to administer oaths. See section 7602 of the Code and the regulations thereunder. There are two general types of audit. These are commonly called "office audit" and "field audit"

(2) *Office audit.* Certain returns are examined by office audit. Ordinarily these are returns which do not disclose activities involving the conduct of a business. An office audit involves an analysis

of the return in the light of the law and the regulations using such evidence as may be available based on returns for previous years, information returns and other records, and the returns of other taxpayers. The original classification of the return usually will have disclosed the need for explanation or supporting evidence. Generally, any questions arising in the office audit are brought to the taxpayer's attention through correspondence with him, and he is asked to supply explanations or copies of supporting evidence by mail. Frequently, however, the examining agent will request the taxpayer to come to the district director's office for a personal conference and interview. The taxpayer has a right, of course, to bring to the attention of the examining agent any amounts included in his return which are not subject to tax or any deductions which he failed to claim on the return.

(3) *Field audit.* Certain returns are examined by field audit which involves an examination by an internal revenue agent of the taxpayer's books and records on the taxpayer's premises. The revenue agent will check the entire return filed by the taxpayer and will examine all books, papers, records, and memoranda dealing with matters required to be included in the return. If the return presents an engineering or appraisal problem (e. g., depreciation or depletion deductions, gains or losses upon the sale or exchange of property, or losses on account of abandonment, exhaustion, or obsolescence) it may, at the discretion of the officer responsible for making the final determination with respect to the tax liability, be investigated by an engineer agent who makes a separate report.

(4) *Conclusion of audit.* At the conclusion of an office or field audit, the taxpayer is afforded an opportunity to agree with the findings of the examining agent. In the event that the taxpayer does not agree, the examining agent will inform the taxpayer of his right to an informal conference. The examining agent will furnish the taxpayer a brief statement identifying the proposed adjustments as a basis for requesting an informal conference, if desired. Such informal conference will afford the taxpayer an opportunity to discuss orally the proposed adjustments prior to the preparation of the examining agent's report. See paragraph (c) of this section for informal conference procedure. On the other hand, if the taxpayer agrees with the proposed changes, he should then execute Form 870, or other appropriate agreement form, which will be tendered to him by the examining agent. If the case involves income, profits, estate or gift taxes, this agreement is evidenced in the form of a waiver by the taxpayer of restrictions on assessment and collection of the deficiency or an acceptance of a proposed overassessment. If the case involves excise or employment taxes, the agreement is evidenced by the taxpayer's signing a waiver of his right to file a claim for abatement after the assessment of the additional tax, or by an acceptance of a proposed overassessment. Even though the taxpayer signs an acceptance of a proposed overassessment, the district director remains free to assess a deficiency. On the other hand, the taxpayer who has given a waiver may still claim a refund of any part of the deficiency assessed against him and paid by him, or any part of the tax originally assessed and paid by him. The taxpayer's acceptance of an agreed overassessment does not prevent his filing a claim and bringing a suit for an additional sum, nor does it preclude the Government from maintaining suit to recover an erroneous refund. As a matter of practice, however, waivers or acceptances ordinarily result in the closing of a case insofar as the Government is concerned.

(c) *Informal conference procedure—* (1) *General.* If the taxpayer does not agree with the findings of the examining agent, the taxpayer is advised in writing that he may present his objections to such findings at an informal conference in the Audit Division of the district director's office. The taxpayer is usually granted 10 days from the date of the written notice in which to request an informal conference on the proposed changes. Such request may be made by telephoning or writing to the number or address set forth in such written notice. If the taxpayer fails to request an informal conference within such time or to obtain an extension of time for requesting a conference, the examining agent will proceed with the completion of his report, a copy of which will be mailed to the taxpayer by the district director under cover of a "30-day letter" stating the action proposed to be taken. For further procedure in such a case, see paragraph (d) of this section. If the case involves an additional or delinquent excise or employment tax and the taxpayer fails to request an informal conference, in lieu of a "30-day letter" the taxpayer will be sent a letter advising that the additional or delinquent tax will be assessed by the district director and further advising the taxpayer of the alternative courses of action available to him after the assessment. See paragraph (d) (2) of this section. In certain excise and employment tax cases, in lieu of enclosing a copy of the examining agent's report, such letter will contain an explanation of the proposed adjustments.

(2) *Scope of informal conference procedure.* The informal conference procedure described in this paragraph is applicable in the determination of any liability in respect of income, profits, estate, gift, excise, or employment taxes. This procedure, however, is not applicable in the determination of liability for any excise tax imposed by the following provisions of the Code (and the corresponding provisions of the 1939 Code) chapter 35 (relating to wagering), subchapter A of chapter 39 (relating to narcotic drugs and marihuana) subtitle E (relating to alcohol, tobacco, machine guns and certain other firearms) and subchapter D of chapter 78 (relating to certain import taxes) insofar as it relates to alcohol and tobacco. The procedure described in this paragraph does not apply in any case where criminal prosecution is under consideration, or in any case in which, in the discretion of the district director of internal revenue, the Government's interest would be prejudiced thereby. Nor does this procedure preclude the taking of appropriate action where the assessment or collection of the tax is in jeopardy. See paragraph (h) of this section.

(3) *Rules governing informal conferences.* The objective of the informal conference procedure is to give taxpayers greater opportunity to reach an early agreement with respect to disputed items arising from examinations made by internal revenue agents. This procedure affords a means by which such issues may be resolved prior to the preparation of the agent's report and without the necessity of the taxpayer filing a formal protest. The examining agent will be present at the conference. If the taxpayer is represented by an attorney or agent, the rules with respect to their recognition, the filing of powers of attorney, and the filing of fee statements are applicable. For conference and practice requirements, see Subpart E. In the conduct of informal conferences, it is the duty of the group supervisor or other officer who may be acting as conferee to conduct the conference in accordance with the objectives of the informal conference procedure and to provide the taxpayer a fair and courteous hearing at which the taxpayer may present his statement of facts and his view of the issues; to make certain that all pertinent facts are included in the record and are considered in arriving at the proposed recommendation; to make certain that the pertinent provisions of the Internal Revenue Code are applied in arriving at the proposed recommendation and that the proposed recommendation is in accord with the interpretations of the Internal Revenue Service as expressed in regulations and rulings; and to explain fully to the taxpayer the conclusions reached and the reasons therefor. It is the responsibility of the group supervisor or other designated officer to prepare a conference report with respect to each case on which an informal conference is held. This report, which will set forth briefly and concisely the facts and conclusions reached with respect to each issue, will be made available to the examining officer. In preparing his report the examining officer will give effect to the conference decisions. The examination report and the conference report are subject to review in the Audit Division of the district director's office. The purpose of this review is to insure uniformity in the application of the provisions of the Code, the regulations and rulings, as well as the general policy of the Service. In the event that an agreement with the taxpayer is reached at the informal conference, the taxpayer will be requested to execute Form 870 or other appropriate agreement form. Any deficiency in tax or additional tax proposed will then be assessed, or any overpayment will be credited or refunded.

(d) *Thirty-day letters; protests; claims for abatement—*(1) *General.* The report of the examining agent, as approved after review, recommends one of four determinations:

(i) Acceptance of the return as filed and closing of the case;

(ii) Assertion of a given deficiency or additional tax;

(iii) Allowance of a given overassessment, with or without a claim for refund, credit, or abatement;

(iv) If a claim for refund, credit, or abatement has been filed and has been found wholly lacking in merit, denial of the claim.

If any one of the last three determinations is made (except a full allowance of a claim in respect of any tax or a proposed additional excise or employment tax) unless the taxpayer has previously agreed with the finding by signing an agreement form as above described in this section, the district director sends to the taxpayer a preliminary or "30-day letter" This is a form letter which states the determination proposed to be made. Except in certain excise and employment tax cases, it is accompanied by a copy of the examining agent's report explaining the basis of the proposed determination. It suggests to the taxpayer that if he concurs in the recommendation, he indicate his agreement by executing and returning the enclosed form of waiver or acceptance. The preliminary letter also advises the taxpayer that if he disagrees with the proposed determination, he may file a written protest under oath within 30 days (from the date of the letter) stating the grounds for his disagreement and may have a hearing in the Appellate Division of the region if requested. Failure by the taxpayer to make any response within 30 days will result in the issuance of a statutory notice of deficiency in income, profits, estate and gift tax cases, or other appropriate action, such as the issuance of a certificate of overassessment or the denial of a claim.

(2) *Excise and employment tax cases.* If the case involves excise or employment taxes and the examination report proposes an additional or delinquent tax, in lieu of a "30-day letter" the taxpayer will be sent a letter advising that the additional or delinquent tax will be assessed by the district director and that upon receipt of notice and demand for payment of such additional or delinquent tax from the district director, the taxpayer may pay the assessment and file a claim for refund or credit, or may defer paying the assessment and instead file a claim for abatement of the assessment. Form 843 is the form prescribed for use in filing such claims. The taxpayer will also be advised that if he wishes the case to be transferred to the Appellate Division of the region, he should file with the claim a request in writing for such transfer. If the taxpayer requests consideration by the Appellate Division, he may file with his claim a written protest under oath setting forth the facts upon which he relies and his contentions with respect to the issues involved. If the taxpayer files a claim for abatement of the assessment and a request in writing for transfer of the case to the Appellate Division of the region, but does not file a protest, the Appellate Division may thereafter request the taxpayer to file a protest if the conferee to whom the case is assigned decides that a protest would facilitate disposition of the case. If the taxpayer fails to file a claim for abatement within 10 days from the date of the notice and demand for payment of the assessment, the tax becomes collectible immediately upon expiration of such period.

(3) *Protests.* If the taxpayer chooses to file a protest against the proposed determination set forth in the "30-day letter", his protest should be filed in the district director's office and, following review of the protest, the case will be referred to the Appellate Division of the region. The taxpayer will also be accorded a conference in the Appellate Division if he requests it. Protests should be filed in triplicate. No particular form of protest has been prescribed. However, instructions for the preparation of protests are sent with the "30-day letter" For a description of the procedure in the Appellate Division, see § 601.106.

(e) *Claims for refund or credit.* (1) After payment of the tax a taxpayer may contest the assessment by filing a claim for refund or credit for all or any part of the amount paid, except as provided in section 6512 of the Code with respect to certain taxes determined by the Tax Court, the decision of which has become final. A claim for refund or credit is made on Form 843, which is obtainable from the district director. Generally, the claim, together with appropriate supporting evidence, must be filed in the office of the district director for the district in which the tax was paid. A claim for refund or credit must be filed within the applicable statutory period of limitation. In the case of individuals a properly executed income tax return may, if the taxpayer elects, operate as a claim for refund or credit of the amount of the overpayment disclosed by such return. If an individual income taxpayer elects to file Form 1040A as a return, such return operates automatically as a claim for refund for the amount of the overpayment shown by the district director's computation of the tax on the basis of the return.

(2) Claims for refund or credit are investigated and considered by the Audit Division of the district director's office. The procedure applicable to the determination of correct tax liability upon the basis of a claim for refund or credit filed by the taxpayer is substantially the same as the procedure applicable to the original determination of tax liability upon the basis of a return filed by a taxpayer. The procedure applicable to the review of determinations of overassessments exceeding $100,000 is substantially the same as that applicable to such determinations by the Appellate Division. See § 601.108.

(3) As to suits for refund, see § 601.103 (c)

(4) A special procedure is applicable to claims for excess profits tax relief (including credit or refund) under section 722 of the Internal Revenue Code of 1939. See § 601.107 for a description of the applicable procedure.

(5) There is also a special procedure applicable to applications for tentative carryback adjustments under section 6411 of the Code (consult Forms 1045 and 1139)

(f) *Interruption of audit and conference procedure.* The process of field audits and the course of the administrative procedure described in this section and in the following section may be interrupted in some cases by the imminent expiration of the statutory period of limitations for assessment of the tax. In this event the district director of internal revenue or other appropriate officer concerned must dispatch a statutory notice of deficiency (income, profits, estate or gift tax cases) or take other appropriate action with a view to assessment, even though the audit or conferences may then be going forward. In order to avoid interruption of the established procedure (except in estate tax cases) it is suggested to the taxpayer that he execute an agreement on Form 872 (or such other form as may be prescribed for this purpose). To be effective this agreement must be entered into by the taxpayer and the district director or other appropriate officer concerned prior to the expiration of the time otherwise provided for assessment. Such a consent extends the period for assessment of any deficiency, or any additional or delinquent tax, and extends the period during which the taxpayer may claim a refund or credit to a date 6 months after the agreed time of extension of the assessment period.

(g) *Fraud.* The procedure described in this section does not apply in any case in which criminal prosecution is under consideration. Such procedure does obtain, however, in cases involving the assertion of the civil fraud penalty after the criminal aspects of the case have been closed.

(h) *Jeopardy assessments.* If the district director believes that the assessment or collection of a tax will be jeopardized by delay, he is authorized and required to assess the tax immediately, together with interest and other additional amounts provided by law, notwithstanding the restrictions on assessment or collection of income, estate and gift taxes contained in section 6213 (a) of the Code. A jeopardy assessment does not deprive the taxpayer of his right to file a petition with the Tax Court. Collection of a tax in jeopardy may be immediately enforced by the district director upon notice and demand. To stay collection the taxpayer may file with the district director a bond equal to the amount for which the stay is desired.

§ 601.106 *Appellate functions*—(a) *General.* (1) There is provided in each region an Appellate Division, with office facilities within the region. Subject to the limitations set forth in subparagraphs (2) and (3) of this paragraph, there is vested in certain officers of the Appellate Division of each region, by delegation of authority from the regional commissioner, the exclusive and final authority to represent the Commissioner in the determination of Federal income, profits, estate or gift tax liability (whether before or after the issuance of a statutory notice of deficiency) and in the determination of employment or certain Federal excise tax liability in any

case originating in the office of any district director of internal revenue situated in the region, in which the taxpayer has protested the determination of liability made by that officer and no agreement has been reached. The Appellate Division has complete jurisdiction of every income, profits, estate or gift tax case after the issuance of the statutory notice of deficiency, subject to the limitations provided in subparagraph (2) of this paragraph. After the filing of a petition in the Tax Court the Appellate Division continues to have exclusive jurisdiction of the case, subject to the provisions of subparagraph (2) of this paragraph, and to have custody of all administrative files, papers and documents relating to the case, which, however, are at all times available to the regional counsel for the preparation of appropriate pleadings to the petition and for the defense before the Tax Court of the Commissioner's determination. Subject to the exceptions and limitations set forth in subparagraph (2) of this paragraph, there is also vested in the Appellate Division of the region exclusive authority to settle (i) all cases docketed in the Tax Court of the United States and placed on a calendar for hearing at any place within the territory comprising the region and (ii) all cases originating in the office of any district director situated within the region which are placed on the Washington, D. C., calendar of the Tax Court, unless the petitioner is then domiciled in the region which includes Washington, D. C. Furthermore, the Appellate Division of the region may retain exclusive authority to settle all cases docketed in the Tax Court which originated in the office of any district director situated within the territorial jurisdiction of such region which may be placed upon a calendar of the Tax Court for hearing at a place within the territorial jurisdiction of the Appellate Division of an adjoining region.

(2) The authority described in subparagraph (1) of this paragraph does not include the authority to:

(i) Make or approve a settlement in any case docketed in the Tax Court, except with the concurrence of regional counsel;

(ii) Eliminate the ad valorem fraud or negligence penalty in any case not docketed in the Tax Court, except with the concurrence of regional counsel;

(iii) Act in any case in which criminal prosecution has been recommended, unless and until final disposition has been made of the criminal aspects thereof; or

(iv) Modify any decision of the Excess Profits Tax Council with respect to any issue arising under the provisions of section 722 of the Internal Revenue Code of 1939, except with the concurrence of the Council.

(3) The authority vested in the Appellate Division does not extend to the determination of liability for any excise tax imposed by the following chapters of the Internal Revenue Code (and the corresponding provisions of the 1939 Code) chapter 35 (relating to wagering) subchapter A of chapter 39 (relating to narcotic drugs and marihuana) subtitle E (relating to alcohol, tobacco, machine guns and certain other firearms) and subchapter D of chapter 78 (relating to certain import taxes) insofar as it relates to alcohol and tobacco.

(b) *Initiation of proceedings before the Appellate Division.* In any case in which the district director of internal revenue has issued a preliminary or "30-day letter" and the taxpayer files a written protest under oath against the proposed determination of tax liability made by the district director, and in any case in which the taxpayer files a claim for abatement or refund of any excise or employment tax, the taxpayer has the right (and will be so advised by the district director) of administrative appeal to the Appellate Division of the region. Following review of the protest, the case and its administrative record are referred to the Appellate Division. No taxpayer is required to submit his case to the Appellate Division for consideration. Appeal is at the option of the taxpayer. A request for administrative appeal to the Appellate Division will not be denied because no informal conference was held in the district director's office. The Appellate Division will not consider before the issuance of a statutory notice of deficiency any case involving a determination of income, profits, estate or gift tax liability in which no protest has been filed with the district director. After the issuance by the district director of a statutory notice of deficiency in such a case, upon the taxpayer's request, the Appellate Division may take up the case for settlement and may grant the taxpayer a hearing thereon. Except in unusual circumstances, however, no hearing in such a case will be granted prior to the filing of a petition in the Tax Court for a redetermination of the deficiency proposed in the statutory notice.

(c) *Nature of proceedings before the Appellate Division.* Proceedings before the Appellate Division are informal. Testimony under oath is not taken, although matters alleged as fact may be required to be submitted in the form of affidavits. Taxpayers may appear in person or by or with a representative duly enrolled to practice before the Treasury Department and whose appearance must be under a proper power of attorney authorizing him to act for the taxpayer. See Subpart E. Any material matter of fact not presented to the district director of internal revenue will be subject to reference to the district director for investigation and report. At any hearing granted by the Appellate Division the district director will be represented if he so desires, or if the Chief of the Appellate Division of the region, or his authorized representative, deems it advisable; and at any such hearing on a case involving the ad valorem fraud or negligence penalty, the regional counsel will be represented if he so desires.

(d) *Disposition and settlement of cases before the Appellate Division*—(1) *Cases not docketed in the Tax Court.* (i) If after consideration of the case by the Appellate Division of the region a satisfactory settlement of the issues is reached with the taxpayer, he will be requested to sign Form 870–AD or other appropriate agreement form waiving restrictions on the assessment and collection of any deficiency, or to sign an acceptance of any overassessment resulting under the agreed settlement. As an incident to such settlement the taxpayer may also be required to execute an agreement to make prompt payment of the agreed deficiency or additional tax, together with interest due thereon; not to file an offer in compromise in respect of the agreed tax liability; and upon request to execute at any time a final closing agreement (see § 601.202) under the provisions of section 7121 of the Code in respect of the tax liabilities determined upon the basis of the agreed settlement.

(ii) If after consideration of the case by the Appellate Division of the region it is determined that there is a deficiency in income, profits, estate or gift tax, to which the taxpayer does not agree, a statutory notice of deficiency will be prepared and issued by the Appellate Division after consideration by the regional counsel. The case will be retained by the Appellate Division and, in the event a petition is filed with the Tax Court, the case will be referred to the regional counsel for preparation of the answer or other appropriate pleading. In the event that no petition is filed, the case will be transferred to the district director for appropriate action. In any other unagreed case, the case and its administrative record will be returned to the district director with directions to take such action with respect to the tax liability determined in the Appellate Division as may be appropriate, such as the issuance of a statutory notice of disallowance of a claim for refund or credit in whole or in part, the preparation of a certificate of overassessment or other appropriate action, or the collection of any additional tax (excise and employment tax cases)

(2) *Cases docketed in the Tax Court.* (i) If the case under consideration in the Appellate Division is docketed in the Tax Court and agreement is reached with the taxpayer with respect to the issues involved, the disposition of the case is effected by a stipulation of agreed deficiency or overpayment to be filed with the Tax Court and in conformity with which the Court will enter its order.

(ii) If the case under consideration in the Appellate Division is docketed in the Tax Court and the issues remain unsettled after consideration and conference in the Appellate Division, the case will be referred to the regional counsel for the region for defense of the tax liability determined.

(e) *Transfer and centralization of cases.* (1) If a case is docketed in the Tax Court of the United States and is placed on a calendar for hearing at any place within one region, and such case originated in the office of a district director situated within another region, the Commissioner has the authority to confer all or any part of the jurisdiction, authority, and duties vested in the Appellate Division of the region in which the case originated upon the Appellate Division of the region within which the place of hearing is located. However, jurisdiction will not be transferred to the Appellate Division of the region which includes Washington, D. C., in any dock-

eted case set for hearing at Washington, D. C., which did not originate within such region, unless the taxpayer's domicile is then situated within such region. Likewise, the Chief Counsel has corresponding authority to transfer the jurisdiction, authority, and duties of the regional counsel for any region to the regional counsel of another region within which the case has been set for hearing before the Tax Court.

(2) Should a regional commissioner determine that it would better serve the interests of the Government, he may, by order in writing, withdraw any case not docketed before the Tax Court from the jurisdiction of the Appellate Division of the region, and provide for its disposition under his personal direction. Similarly, should the regional commissioner and the regional counsel jointly determine that it would better serve the interests of the Government, they may, by order in writing, withdraw any case docketed before the Tax Court from the jurisdiction of the Appellate Division of the region, and provide for its disposition under their joint direction.

(f) *Conference and practice requirements.* Practice and conference procedure before the Appellate Division is governed by Treasury Department Circular 230 as amended (31 CFR, Parts 10, 12, 13, and 14) and the requirements of Subpart E. In addition to such rules but not in modification of them, the following rules are also applicable to practice before the Appellate Division:

(1) *Rule I.* The Appellate Division conferee shall bear in mind that an exaction by the United States Government, which is not based upon law, statutory or otherwise, is a taking of property without due process of law, in violation of the Fifth Amendment to the United States Constitution. The conferee, in his conclusions of fact or application of the law, shall hew to the law and the recognized standards of legal construction. It shall be the duty of the conferee to determine the correct amount of the tax, with strict impartiality as between the taxpayer and the Government, and without favoritism or discrimination as between taxpayers.

(2) *Rule II.* In recognition of the difference between abstract theory and practical administration, where substantial uncertainties exist either in law or in fact, or both, as to the correct application of the law to the whole record of a controversy, the Appellate Division will give serious consideration to an offer of settlement of the dispute on a basis which fairly reflects the strength or weakness of the opposing views. However, no settlement will be countenanced based upon nuisance value of the case to either party.

(3) *Rule III.* Where the Appellate Division conferee recommends acceptance of the taxpayer's proposal of settlement, or, in the absence of a proposal, recommends action favorable to the taxpayer, and said recommendation is disapproved in whole or in part by a reviewing officer in the Appellate Division, the taxpayer shall be so advised by such reviewing officer and upon written request shall be accorded a rehearing before such reviewing officer. The Appellate Division disregards this rule where the interests of the Government would be injured by delay, as for example, a case involving the imminent expiration of the statute of limitations, dissipation of assets, etc.

(4) *Rule IV* Where the Chief of the Appellate Division, the Associate Chief, Assistant Chief, or Special Assistant to the Chief, as the case may be, deems it advisable, whether or not upon request of the taxpayer, the district director of internal revenue will be requested to be represented at any Appellate Division conference on the case, in which event such representative (or representatives) will be invited and expected to enter into the discussion and oral argument at the conference on an equal footing with the taxpayer.

(5) *Rule V* In order to bring an income, profits, estate or gift tax case before the Appellate Division in prestatutory notice status, the taxpayer must first file with the district director of internal revenue a written protest setting forth specifically the reasons for his refusal to accept the director's findings. The Appellate Division will not assume jurisdiction in an employment or excise tax case prior to the filing of a claim for refund or a claim for abatement.

(6) *Rule VI.* A taxpayer cannot withhold evidence from the district director of internal revenue and expect to introduce it for the first time before the Appellate Division, at a conference in nondocketed status, without being subject to having the case returned to the district director for reconsideration. Where newly discovered evidence is submitted for the first time to the Appellate Division, in a case pending in nondocketed status, that office, in the reasonable exercise of its discretion, may transmit same to the district director for his consideration and comment.

(7) *Rule VII.* Where the taxpayer has had the benefit of a conference either before the office of the district director of internal revenue or before the Appellate Division, as the case may be, in the prestatutory notice status, or where the opportunity for such a conference was accorded but not availed of, there will be no conference granted before the Appellate Division in the 90-day status after the mailing of the statutory notice of deficiency, in the absence of unusual circumstances.

(8) *Rule VIII.* In any case docketed in the Tax Court of the United States on which a conference is being conducted before an Appellate Division conferee, the Regional Counsel is privileged to be represented and to participate in the discussion. In cases not docketed in the Tax Court of the United States on which a conference is being conducted before an Appellate Division conferee, the Regional Counsel or his representative may be requested to attend and to give legal advice in the more difficult cases, or on matters of legal or litigating policy.

(9) *Rule IX.* A taxpayer may request the reopening or resumption of settlement conferences in a docketed case, before the Associate Chief or the Assistant Chief, as the case may be, in charge of an Appellate Division office, and whenever such request is granted, the conferee who originally heard the case shall ordinarily be present and participate in any conference.

(g) *Limitations on the jurisdiction and functions of the Appellate Division—(1) Overassessments of more than $100,000.* If the Appellate Division of the region determines in any case that there is an overassessment (of taxes, penalties, or interest) exceeding $100,000, such determination is subject to review by the Office of the Chief Counsel. See § 601.108.

(2) *Offers in compromise.* For jurisdiction of the Appellate Division with respect to offers in compromise of tax liabilities, see § 601.203.

(3) *Closing agreements.* For jurisdiction of the Appellate Division with respect to closing agreements under section 7121 of the Code relating to any internal revenue tax liability, see § 601.202.

(4) *Bankruptcy and receivership.* For limitations on the authority and functions of the Appellate Division in bankruptcy and receivership cases, see § 601.109.

§ 601.107 *Excess Profits Tax Council; appellate functions and procedures under section 722 of the Internal Revenue Code of 1939—(a) General.* (1) Subchapter E of chapter 2 of the Internal Revenue Code of 1939 imposed on corporations an excess profits tax based on their "adjusted excess profits net income" as defined in section 711 of such Code. This tax was effective as to taxable years beginning after December 31, 1939, and was repealed by the Revenue Act of 1945, with respect to taxable years beginning after December 31, 1945. Section 722 of the 1939 Code provides that, if the taxpayer, pursuant to certain rules and standards in such section, establishes that the tax computed under subchapter E is excessive and discriminatory, relief under limitations contained in section 722 will be granted. The appellate functions of the Excess Profits Tax Council relate to the consideration and the determination of issues arising under section 722.

(2) The rules bearing upon the procedure applicable with respect to section 722 of the 1939 Code are found in Regulations 109 and Regulations 112 (26 CFR, 1938 Ed. and Supps., Part 35) There has also been published "Bulletin on Section 722 of the Internal Revenue Code" copies of which may be obtained from the Superintendent of Documents, Government Printing Office, Washington 25, D. C. Practice and conference procedure before the Council is also governed by Treasury Department Circular 230 (31 CFR, Parts 10–14), and the requirements of Subpart E.

(b) *Procedure.* (1) To secure excess profits tax relief under section 722 of the 1939 Code an application therefor must be filed within the applicable period of time prescribed by section 322 of such Code. The application is required to be filed in duplicate on Form 991, copies of which are obtainable at district directors' offices. The regulations promulgated under section 722 (see paragraph

(a) (2) of this section) provide that an application must be filed for each year for which the benefits of section 722 are claimed and that only one section 722 application for any year may be filed. Such applications are required to be so framed as to adequately disclose the essential facts and issues involved.

(2) Applications for relief under section 722 are referred for investigation and consideration to section 722 field committees established at the offices of district directors of internal revenue. After completion of investigation and consideration of an application for relief by a section 722 field committee, the taxpayer is afforded opportunity for a conference for the consideration of the committee's findings. After field committee consideration and conference with the taxpayer, the recommendations of the field committee are certified to the Excess Profits Tax Council for review. In the event that the taxpayer and the field committee cannot reach an agreement on the application or where an agreement between the taxpayer and the field committee is not approved by the Council, the taxpayer will be afforded an adequate opportunity to have its case heard before the Council.

(3) Determinations of the Council are subject to appeal to the Tax Court of the United States under the provisions of section 732 of the 1939 Code.

§ 601.108 *Review of overassessments exceeding $100,000*—(a) *By Office of Chief Counsel.* Determinations of overassessments (other than overassessments of alcohol, tobacco, and certain firearms taxes) with respect to any internal revenue tax exceeding $100,000 are subject to review by the Office of the Chief Counsel. If upon review of such a determination by the Office of the Chief Counsel that office questions the proposed overassessments, the taxpayer or his representative will ordinarily, if a legal question is involved, be advised by letter regarding such issue. Such letter will also advise the taxpayer or his representative that upon request a conference will be granted by the Office of the Chief Counsel at which time the taxpayer or his representative may appear and present his views regarding the issue.

(b) *Other applicable procedures.* If agreement is reached with the taxpayer on the issues involved (including agreement with the Office of the Chief Counsel on any issues raised by that office) the taxpayer will be requested to file a letter stating his agreement with any proposed revision of the overassessment and the basis thereof, and also to agree in such letter to execute Form 870 or other appropriate agreement form accepting the revised proposed overassessment and not to file any further claims for refund, credit, or abatement with respect to any tax, penalty, or interest to which such proposed overassessment relates. In addition, the taxpayer may also be requested to execute at any time upon request a final closing agreement under section 7121 of the Code respecting the tax liability to which the proposed overassessment relates.

(c) *Certification or rejection of claimed overpayment.* Section 6405 of the Code provides that no refund or credit of income, profits, estate or gift taxes in excess of $100,000 shall be made until after the expiration of 30 days from the date upon which a report of the matter is made to the Joint Committee on Internal Revenue Taxation of Congress. After compliance with section 6405, the case will be processed for issuance of a certificate of overassessment, and payment or credit of any overpayment. If the final determination involves a rejection of a claimed overpayment, in whole or in part, a statutory notice of rejection will be sent by registered mail to the taxpayer. See section 6532 (a) (1) of the Code.

§ 601.109 *Bankruptcy and receivership cases*—(a) *General.* (1) Upon the adjudication of bankruptcy of any taxpayer in any liquidating proceeding or the approval of a petition of, or against, any taxpayer in any other proceeding under the Bankruptcy Act or the appointment of a receiver for any taxpayer in any receivership proceeding before a court of the United States or of any State or Territory or of the District of Columbia, the assessment of any deficiency in income, profits, estate or gift taxes (together with all interest, additional amounts, or additions to the tax provided for by law) shall be made immediately. See section 6871 of the Code. In such cases the restrictions imposed by section 6213 (a) of the Code upon assessments are not applicable. (In the case of an assignment for the benefit of creditors, the assessment will be made under section 6861, relating to jeopardy assessments. See § 601.105 (h).) Cases in which immediate assessment will be made include those of taxpayers in receivership or in bankruptcy agricultural composition, reorganization, arrangement, or wage earner proceedings under chapters I to VII, sections 75, 77, chapters X, XI, XII, and XIII of the Bankruptcy Act. The term "approval of a petition in any other proceeding under the Bankruptcy Act" includes the filing of a petition under section 75 or chapters XI to XIII of the Bankruptcy Act with a court of competent jurisdiction. A fiduciary in any proceeding under the Bankruptcy Act (including a trustee, receiver, debtor in possession, or other person designated by the court as in control of the assets or affairs of a debtor) or a receiver in any receivership proceeding may be required, as provided in regulations prescribed under section 6036 of the Code, to give notice in writing to the district director of his qualification as such. Failure on the part of such fiduciary in a receivership proceeding or a proceeding under the Bankruptcy Act to give such notice, when required, results in the suspension of the running of the period of limitations on the making of assessments from the date of the institution of the proceeding to the date upon which such notice is received by the district director, and for an additional 30 days thereafter. However, in no case where the required notice is not given shall the suspension of the running of the period of limitations on assessment exceed 2 years. See section 6872 of the Code.

(2) It is the duty of the district director, promptly after ascertaining the existence of any outstanding Federal tax liability against a taxpayer in any proceeding under the Bankruptcy Act or receivership proceeding, and in any event within the time limited by appropriate provisions of law or the appropriate orders of the court in which such proceeding is pending, to file a proof of claim covering such liability in the court in which the proceeding is pending. Such a claim is filed whether the unpaid taxes involved have been assessed or not except in cases where departmental instructions direct otherwise. At the same time claim is filed with the bankruptcy or receivership court, the district director will send to the taxpayer notice and demand for payment together with a copy of such claim.

(3) After the institution of a railroad reorganization, corporate reorganization or real property arrangement proceeding under section 77 and chapters X and XII of the Bankruptcy Act, copies of the proof of claim and all other information essential to the protection of the interests of the Government are transmitted to the Chief Counsel in the National Office where the Chief Counsel's legal functions in these proceedings are performed. In connection with strict bankruptcy liquidation proceedings, agricultural composition and extension proceedings, arrangement proceedings and wage earner plan proceedings, under chapters I to VII, section 75 and chapters XI and XIII of the Bankruptcy Act and with respect to receivership proceedings, decedent's estates, assignments for the benefit of creditors and other miscellaneous insolvency proceedings, the district director retains all of such information until he concludes that legal action or advice of regional counsel is desirable, or necessary, in which event he refers the legal case to regional counsel.

(b) *Procedure in office of district director of internal revenue.* (1) While the district director is required by section 6871 of the Code to make immediate assessment of any deficiency in income, estate or gift taxes, such assessment is not made as a jeopardy assessment (see § 601.105 (h)), and the provisions of section 6861 do not apply to any assessment made under section 6871. Therefore, the notice of deficiency provided for in section 6861 (b) will not be mailed to the taxpayer. Nevertheless, a letter (Form 7900) will be prepared and addressed in the name of the taxpayer, immediately followed by the name of the trustee, receiver, debtor in possession or other person designated by the court in which the bankruptcy or receivership proceeding is pending as in control of the assets or affairs of the debtor. Such letter will state how the deficiency was computed and advise that within 30 days a written protest under oath may be filed with the district director showing wherein the deficiency is claimed to be incorrect, and that upon request an informal conference will be granted with respect to such deficiency. If, after protest is filed and any informal conference is held, adjustment appears necessary in the deficiency, appropriate action will be taken. Except where the interests of the Government

require otherwise, Form 7900 letters are issued by the office of the district director of internal revenue. If at the time of the adjudication of bankruptcy in a liquidating proceeding or the approval of a petition in any other proceeding under the Bankruptcy Act or appointment of a receiver a case was pending before the Tax Court of the United States, the prescribed Form 7900 letter will not advise the addressee of any right to file a protest or to request a conference in the office of the district director. Protests must be filed in triplicate. In general, the procedure concerning informal conferences described in § 601.105 (c) is also applicable to an informal conference held after the issuance of a Form 7900 letter, except that the examining agent's report may be prepared prior to such conference.

(2) The immediate assessment required by section 6871 of the Code represents an exception to the usual restrictions on the assessment of Federal income, estate, and gift taxes. Since there are no restrictions on the assessment of Federal excise or employment taxes, immediate assessment of such taxes will be made in any case where section 6871 of the Code would require immediate assessment of income, estate, or gift taxes.

(3) If after such assessment a claim for abatement is filed and such claim is accompanied by a request in writing for a hearing, an informal conference in the office of the district director of internal revenue will be granted. Ordinarily, only one conference will be held unless it develops that additional information can be furnished which has a material bearing upon the tax liability, in which event the conference will be continued to a later date.

(c) *Procedure before Appellate Division not applicable.* A case involving immediate assessment under section 6871 of the Code or an assessment of excise or employment taxes after an adjudication of bankruptcy in a liquidating proceeding or the approval of a petition in any other proceeding under the Bankruptcy Act or the appointment of a receiver will not be referred by the district director to a field office of the Appellate Division. Therefore, the taxpayer, or the trustee, receiver, or debtor in possession or other person designated by the court as in control of the assets or affairs of the debtor, may not request consideration of the case by the Appellate Division. If at the time of the adjudication of bankruptcy or the approval of a petition or the appointment of a receiver an income, estate, or gift tax case is under consideration by a field office of the Appellate Division, whether before or after issuance of a statutory notice of deficiency, the case will be returned to the district director for issuance of the Form 7900 letter and filing proof of claim in any proceeding under the Bankruptcy Act or in a receivership proceeding. Excise and employment tax cases pending in the Appellate Division at such time will likewise be returned to the district director for filing proof of claim in any proceeding under the Bankruptcy Act or in a receivership proceeding. Thereafter, the case will not be transferred by the district director to the Appellate Division unless a petition for redetermination of the deficiency had been filed in the Tax Court prior to the adjudication of bankruptcy in a liquidating proceeding or the approval of a petition in any other proceeding under the Bankruptcy Act or the appointment of a receiver, and the taxpayer or the trustee, receiver, debtor in possession or other person designated by the bankruptcy or receivership court as in control of the debtor's assets or affairs elects to prosecute the proceeding in the Tax Court. A petition for redetermination of a deficiency may not be filed in the Tax Court after the adjudication of bankruptcy or the approval of a petition or the appointment of a receiver. See section 6871 (b) However, the Tax Court is not deprived of jurisdiction where the adjudication of bankruptcy or the approval of a petition or the appointment of a receiver occurred subsequent to the filing of the petition. In such a case the jurisdiction of the bankruptcy or receivership court and the Tax Court is concurrent.

(d) *Priority of claims.* Under section 3466 of the Revised Statutes and section 3467 of the Revised Statutes, as amended, and section 64 of the Bankruptcy Act, taxes are entitled to the priority over other claims therein stated and the trustee, receiver, debtor in possession or other person designated as in control of the assets or affairs of the debtor by the court in which the bankruptcy or receivership proceeding is pending may be held personally liable for failure on his part to protect the priority of the Government respecting taxes of which he has notice. Sections 75 (1) 77 (e), 199, 337 (2) 455 and 659 (6) of the Bankruptcy Act also contain provisions with respect to the rights of the United States relative to priority of payment. Bankruptcy courts have jurisdiction under the Bankruptcy Act to determine all disputes regarding the amount and the validity of tax claims against a bankrupt or a debtor in a proceeding under the Bankruptcy Act. A bankruptcy or receivership proceeding or an assignment for the benefit of creditors does not discharge any portion of a claim of the United States for taxes except in the case of a proceeding under section 77 or chapter X of the Bankruptcy Act; and any portion of a claim of the United States for taxes which has been allowed by the court in which the bankruptcy or receivership is pending and which remains unsatisfied after the termination of the proceeding shall be collected with interest in accordance with law.

SUBPART B—RULINGS AND OTHER SPECIFIC MATTERS

§ 601.201 *Rulings and determination letters*—(a) *General policy and definitions.* (1) It is the policy of the Internal Revenue Service to answer inquiries of individuals and organizations, whenever appropriate in the interest of sound tax administration, as to their status for tax purposes and as to the tax effects of their acts or transactions, prior to their filing of returns or reports as required by the internal revenue laws. One of the functions of the National Office of the Internal Revenue Service is the issuance of rulings on such matters. District directors of internal revenue are authorized, as hereinafter provided, to issue determination letters within the scope of their functions in answer to taxpayers' inquiries or requests.

(2) The term "ruling" is used to describe a written statement issued by the National Office of the Internal Revenue Service which is an expression of the official interpretation or policy of the Office of the Commissioner of Internal Revenue. Rulings are issued by the Commissioner, or under his authority, and are intended to serve the purpose of establishing principles and policies of the Service in the interpretation and application of substantive tax law. Rulings are issued only by the National Office of the Internal Revenue Service. The Office of the Chief Counsel provides legal services and advice to the Commissioner and his staff in connection with rulings and closing agreements.

(3) The term "determination letter" is used to describe a written statement issued by a district director of internal revenue in response to an inquiry by an individual or an organization, and solely by way of application to the facts involved in a particular inquiry or request of the principles and policies previously established by the National Office. Determination letters are issued only where a determination can be made on the basis of clearly established rules as set forth in the statute, Treasury decisions or regulations, or rulings, opinions or court decisions published in the Internal Revenue Bulletin. Where such a determination cannot be made (such as where the question presented involves a novel issue) or the matter is excluded from the jurisdiction of a district director of internal revenue by the provisions of this section, a determination letter will not be issued by the district director.

(b) *Rulings issued by the National Office in Washington, D. C.* (1) In income, profits, estate, and gift tax matters the National Office will exercise jurisdiction with respect to prospective transactions and with respect to completed transactions affecting returns to be filed, except that it will not ordinarily issue rulings to taxpayers or their representatives in connection with returns to be filed if the identical issue is also involved in a return or returns of the taxpayer already filed for a taxable period or periods with respect to which the statutory period of limitation on assessment or refund of tax has not expired.

(2) In employment and excise tax matters the National Office will exercise jurisdiction over requests for rulings received in the National Office whether such requests are received direct from the taxpayers or whether they are received through the office of a district director of internal revenue, except that the National Office will not ordinarily issue a ruling to a taxpayer or his representative if it knows or has reason to believe that the issue is before the district director in an active examination or audit of the liability of the taxpayer. Likewise, the National Office will not ordinarily take jurisdiction of an issue with respect to future action if it knows or has reason

to believe that the identical issue is before the district director in an active examination or audit of the liability of the taxpayer for a prior period.

(c) *Determination letters issued by district directors of internal revenue.* (1) In income, profits, estate, and gift tax matters district directors of internal revenue are authorized to issue determination letters in response to taxpayers' requests submitted to their offices involving completed transactions only, which affect returns required to be filed in their districts, but only if the question presented is covered specifically by statute, Treasury decision or regulations, or specifically by a ruling, opinion, or court decision published in the Internal Revenue Bulletin. Determination letters will not usually be issued with respect to a question which involves an income, profits, estate, or gift tax return or returns to be filed by the taxpayer if the identical question is involved in a return or returns already filed by the taxpayer. District directors of internal revenue are not authorized to issue determination letters as to the income, profits, estate, or gift tax consequence of prospective or proposed transactions, except as provided in subparagraph (4) of this paragraph.

(2) In employment and excise tax matters district directors of internal revenue are authorized to issue determination letters in response to requests from taxpayers who have filed or who are required to file returns in the district over which they have jurisdiction, but only if the question presented is covered specifically by statute, Treasury decision or regulations, or specifically by a ruling, opinion, or court decision published in the Internal Revenue Bulletin.

(3) Notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph, a district director of internal revenue is not authorized to issue a determination letter in response to an inquiry although presenting a question covered specifically by statute, regulations, or a ruling, etc., published in the Internal Revenue Bulletin, where (i) it appears that a similar inquiry from the taxpayer has been directed to the National Office, (ii) the determination letter is requested by an industry, trade association, or similar group, or (iii) the request involves an industry-wide problem. A district director of internal revenue is not authorized to issue a determination letter unless it is clearly indicated that the inquiry is with regard to a taxpayer or taxpayers in the district under the supervision of the district director who receives the request. Notwithstanding the provisions of subparagraph (2) of this paragraph, the district director of internal revenue is not authorized to issue a determination letter on an employment tax question when the specific question involved has been or is being considered by the National Office of the Social Security Administration, nor on an excise tax question if the request is for a determination of fair market price under sections 4216 (b) and 4218 of the Code or for a determination of fair charges under sections 4281 and 4282 of the Code.

(4) District directors of internal revenue are authorized to issue determination letters involving the status of plans and trusts under section 401 of the Code but are restricted to (i) the initial qualification of the plan under section 401 of the Code, and if trusteed, the status for exemption of the trust forming a part of the plan; (ii) amendments to the plan or trust; (iii) curtailment or termination of plan; and (iv) the effect of an investment of trust funds in stock or securities of the employer on the qualification of the plan. Such authority does not include determinations or opinions under section 402, 403, or 404 of the Code. See also paragraph (l) of this section.

(5) District directors of internal revenue are authorized to issue determination letters involving the exempt status of an organization described in sections 501 and 521 of the Code with respect to the filing of returns and the payment of income tax. Such determination letters are restricted to routine determinations in which the application of the law to the facts shown on the exemption application is clear and which do not present an involved or questionable issue. Applications presenting involved or questionable issues will be forwarded by the district directors of internal revenue to the National Office in Washington, D. C., for the issuance of a ruling. See also paragraph (k) of this section.

(6) A request received by a district director of internal revenue with respect to a question involved in an income, profits, estate, or gift tax return or returns already filed will, in general, be considered in connection with the examination of the return or returns. However, if response to such inquiry is made prior to an examination or audit, it will not be considered a determination letter but will be considered a tentative finding in any subsequent examination or audit of the return.

(d) *Discretionary authority to issue rulings and determination letters.* (1) Except as provided in subparagraph (2) of this paragraph, the Internal Revenue Service has discretionary authority to issue rulings or determination letters. This discretion will be exercised in the light of all relevant circumstances, including the business or other reasons motivating the transaction, and with a view to issuing rulings or determination letters only to the extent consistent with the proper administration of the internal revenue laws.

(2) Rulings will be made in the National Office on prospective transactions where the law or regulations provide for a determination of the effect of a proposed transaction for tax purposes, as in the case of a transfer coming under the provisions of chapter 5 of the Code, or an exchange coming under the provisions of section 367 of the Code.

(e) *Questions on which no ruling or determination letter will be issued.* In addition to the other situations described in this section, rulings or determination letters ordinarily will not be issued in connection with income, profits, estate, and gift tax matters where the determination requested is primarily one of fact, e. g., (1) market value of property, (2) whether compensation is reasonable in amount, (3) whether a transfer is one in contemplation of death, (4) whether retention of earnings and profits by a corporation is for the purpose of avoiding surtax on its shareholders, or (5) whether a transfer or acquisition is within section 1551 or section 269 of the Code.

(f) *Instructions with respect to submission of requests for rulings or determination letters.* (1) Requests for determination letters and rulings should be submitted in duplicate if more than one issue is presented in the request. Requests relating to prospective transactions should not contain alternative plans. Each request for a determination letter or a ruling on either a prospective transaction or a completed transaction must include the following:

(i) A complete statement of the facts regarding the transaction, including the names and addresses of all interested parties, together with a copy of each contract or other document necessary to present such facts. (Inasmuch as exhibits and documents will be retained in the Service files, original documents should not be furnished.) If the subject matter is a corporate reorganization, distribution, or similar related transaction, there should also be submitted the corporate balance sheet nearest the date of the transaction (the most recent balance sheet if the transaction is prospective)

(ii) A full and precise statement of the business reasons, if any, for the transaction.

(iii) If the taxpayer is contending for a particular determination, an explanation of the ground for such contention, together with a memorandum of relevant authorities.

(2) If the request is with respect to the qualification of an organization described in section 501 or 521 of the Code for exemption from Federal income tax, see paragraph (k) of this section. If the request is with respect to the qualification of a plan under section 401 of the Code, see paragraph (l) of this section.

(3) A request by or on behalf of a taxpayer must be signed by the taxpayer or his duly authorized representative. (For provisions relating to powers of attorney and enrollment, see Subpart E.) Requests with respect to matters on which a ruling is desired from the National Office should be addressed to the Commissioner of Internal Revenue, Washington 25, D. C. Requests with respect to matters on which a determination letter from a district director of internal revenue is desired should be addressed to the office of the district director in which the tax return of the taxpayer has been filed or is required to be filed. In this connection see paragraphs (k) and (l) of this section.

(4) It is the practice of the Service to process requests for rulings or determination letters in regular order and as expeditiously as possible. Compliance with a request for consideration of a particular matter ahead of its regular order tends to delay the disposition of other matters. However, requests for process-

ing ahead of the regular order, made in writing and showing clear need for such treatment, will be given consideration as the particular circumstances warrant.

(g) *Withdrawal of requests.* Requests for a ruling or a determination letter may be withdrawn at any time prior to the signing of the letter of reply. The withdrawal of the request, however, will not prevent the National Office from furnishing its views to the district director in whose office the return has been or will be filed. Neither shall such withdrawal prevent a district director of internal revenue from considering the information submitted in a subsequent audit or examination of the taxpayer's return. Even though a request is withdrawn all correspondence and exhibits shall be retained in the files of the Internal Revenue Service and may not be returned to the taxpayer.

(h) *Oral advice to taxpayers.* It is the policy of the Service not to issue rulings or determination letters upon oral request. For reasons of sound administration, oral opinions or advice given to taxpayers by employees or officers of the Internal Revenue Service are considered as aids to taxpayers only.

(i) *Effect of rulings.* (1) Generally no statement by any official of the Internal Revenue Service, other than a closing agreement under section 7121 of the Code (see § 601.202) is final and conclusive upon the Internal Revenue Service. However, see subparagraphs (2) (3) and (4) of this paragraph.

(2) As part of the determination of a taxpayer's liability, district directors will ascertain whether any ruling previously issued to the taxpayer has been properly applied. Thus, it will be determined whether the representations upon which the ruling was based reflected an accurate statement of the material facts and whether the transaction actually was carried out substantially as proposed.

(3) If, in the course of the determination of the tax liability, it is the view of the district director that a ruling previously issued to the taxpayer should be modified or revoked, the findings and recommendations of the district director will be forwarded to the National Office for consideration of the matter prior to further action.

(4) A ruling found to be in error or no longer in accord with the position of the Internal Revenue Service may be modified or revoked. However, it is the general policy of the Internal Revenue Service to limit the revocation or modification of a ruling issued to, or with respect to, a particular taxpayer to a prospective application only, if (i) there has been no misstatement or omission of material facts, (ii) the facts subsequently developed are not materially different from the facts on which the ruling was based, (iii) there has been no change in the applicable law, and (iv) such taxpayer acted in good faith in reliance upon such ruling and a retroactive revocation would be to his detriment.

(5) With respect to rulings published in the Internal Revenue Bulletin, it is the general policy of the Service that taxpayers may rely upon such rulings in determining the rule applicable to their own transactions and need not request a specific ruling applying the principles of the published ruling to the facts of the taxpayer's particular case where otherwise applicable. See, however, subparagraph (7) of this paragraph. In the event of revocation or modification of a ruling published in the Internal Revenue Bulletin, it is the general practice of the Service to make such revocation or modification prospective only.

(6) Under the provisions of section 1108 (b) of the Revenue Act of 1926, a ruling holding that the sale or lease of a particular article is subject to the manufacturers' excise or the retailers' excise tax must be limited in its retroactive application in any case, where (i) such ruling reverses a prior ruling holding the particular article to be nontaxable, and (ii) the taxpayer in reliance upon such ruling parted with possession or ownership of such article without passing the tax on to his customer.

(7) Since each ruling represents the conclusion of the Service as to the application of the law to the entire state of facts involved, taxpayers and others concerned are cautioned against reaching the same conclusion in other cases unless the facts and circumstances are substantially the same. Furthermore, taxpayers and others concerned should, in this connection, consider the effect of subsequent legislation, regulations, court decisions, and rulings.

(j) *Effect of determination letters.* A determination letter issued by a district director, in accordance with this section, will be given the same effect upon examination of the return of the taxpayer to whom the determination letter was issued as is described in paragraph (i) of this section, except that reference to the National Office is not necessary where, upon the examination of the return, it is the opinion of the district director that a conclusion contrary to that expressed in the determination letter is indicated. A district director of internal revenue, however, is not authorized to limit the revocation of a determination letter to a prospective application only, but may refer the matter to the National Office for exercise by the Commissioner, or his delegate, of the authority so to limit the revocation.

(k) *Organizations claiming exemption under section 501 or 521 of the Code.* (1) Any organization claiming exemption under section 501 or 521 of the Code, unless already in receipt of a determination letter or ruling letter from the Internal Revenue Service establishing exemption, is required by Treasury Department regulations to file an application for exemption with the district director of internal revenue for its district. If such application is filed with any office of the Internal Revenue Service other than that prescribed by the regulations, it will, without any action thereon, be forwarded immediately to the appropriate district director's office.

(2) In view of the statutory requirements for exemption and the administrative responsibilities of the Service in the field of exempt organizations, a determination or ruling on an application for exemption will generally not be made with respect to a newly formed organization until it has actually operated for such a period and to such an extent as to clearly demonstrate a bona fide operation for the purposes specified in the exemption statute. Exceptions to this general rule are stated in subparagraphs (4) (5) and (6) of this paragraph.

(3) Except as otherwise provided in subparagraphs (4), (5), and (6) of this paragraph, an application should not be filed by an organization until it has had at least 12 months of active operation (not mere existence) for the purposes for which it was created in order to clearly demonstrate by actual operation for such a period that in fact the organization is conducted for purposes within the exemption provisions of the Code.

(4) A tentative determination letter may be issued by a district director to a newly formed organization with less than 12 months of active operation in a case in which an affirmative showing is made (in or in connection with the exemption application) that the organization is of the community or public type. Tentative rulings will be issued by the National Office upon the same standards. Factors which characterize a community or public organization include responsible public representation on its board of directors or trustees, financial support provided by public contributions, or required reporting to a governmental or public body assuring the organization's adherence to the purposes for which it was formed. Where the facts clearly establish that the organization is of the community or public type, the district director may issue a tentative determination letter with the requirement that the organization at the termination of its first full year of operation submit a new application, together with complete supporting data as specified in the application form or in the applicable regulations.

(5) The provisions of subparagraph (4) shall not be deemed to limit the authority of a district director, in cases where the liability of an organization for certain other Federal taxes is dependent on a determination under, or similar to that under, section 501 (such as in the case of certain exemptions under the admissions tax), to make a tentative determination of the status of the organization for purposes of such other taxes, pending and subject to a determination or ruling on the organization's application for exemption under section 501. However, for income tax purposes, unless the exemption application filed under such circumstances by an organization with less than 12 months of active operation makes an affirmative showing that the organization is of the community or public type, it will be returned as incomplete and a determination or ruling as to the status of the organization under section 501 for purposes of income tax will not be made until the organization has had at least 12 months active operation.

(6) Determination letters allowing exemption under section 501 (a) of the Code will be issued to State chartered credit unions described in section 501 (c)

(14) of the Code at any time after their formation if they operate under uniform bylaws approved by the State.

(7) A list of organizations, contributions to which are deductible under section 23 (o) and (q) of the 1939 Code (section 170 of the 1954 Code) is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington 25, D. C.

(l) *Employees' trusts or plans.* (1) Determination letters as to the qualification of pension, annuity, profit-sharing, and stock bonus plans under section 401 of the Code are issued if requested by taxpayers. Such determination letters are issued with respect to consummated or proposed transactions relating to the initial qualification of a plan and, if trusteed, the status for exemption of the trust forming a part thereof; amendments to plans and trusts; curtailments and terminations of plans; and the effect on qualification of the plan of an investment of trust funds in the stock or securities of the employer. Rulings and determination letters under sections 402 and 403 of the Code are issued with respect to the taxability of a beneficiary, the treatment of the beneficiary of a nonexempt trust and the treatment of certain employees' annuities. Rulings and determination letters under section 404 of the Code are issued with respect to the application of pertinent principles of such section.

(2) Requests for determination letters under section 401 of the Code should be filed with the district director of internal revenue having jurisdiction, determined as follows:

(i) In the case of a plan of a single employer, where the principal place of business of such employer is located;

(ii) In the case of a plan of a parent and subsidiary companies, where the principal place of business of the parent company is situated regardless of whether consolidated returns are filed;

(iii) In the case of an industry-wide plan (a plan established in a particular industry by all subscribing employers, some of whom are located within the jurisdiction of more than one district director's office) where the trustee's principal place of business is located or, if more than one trustee, where the usual place of meeting of the trustees is held;

(iv) In the case of a plan of multiple employers not provided for in the categories set forth in clauses (ii) and (iii) above, where the trustee's principal place of business is located or, if more than one trustee, or if non-trusteed, where the usual place of meeting of the trustees or principal supervisors is held. Such district director is authorized, subject to review by the National Office, to issue determination letters as to the status of the plans and trusts under section 401 of the Code. All requests for determination letters as to the status of the plan or trust should be accompanied by duplicate statements of all pertinent information. Requests for rulings under sections 402, 403, and 404 of the Code should be submitted to the Commissioner of Internal Revenue, Washington 25, D. C. However, in this connection see paragraph (c) of this section with respect to determination letters on these issues.

(3) Treasury Department regulations relating to income taxes set forth the information required to be submitted in connection with certain types of inquiries relating to pension, annuity, profit-sharing, and stock bonus plans.

(m) *Conferences.* A conference requested by a taxpayer in writing at the time his request for a ruling or a determination letter is filed or shortly thereafter will be granted at that stage in the consideration of the case when it will be most helpful. The taxpayer or his representative should not request that the conference be deferred until Internal Revenue Service action (whether or not in accord with the taxpayer's contention) is imminent. More than one conference should not be sought unless the taxpayer has important new matter to present, or unless the problems involved require the consideration of the case by different divisions or offices of the Internal Revenue Service. This conference rule shall apply with respect to any request for a determination letter which is referred to the National Office for a ruling, including paragraph (k) (4) of this section. Taxpayers and their representatives are required to fulfill the conference and practice requirements of the Internal Revenue Service (see Subpart E)

§ 601.202 *Closing agreements*—(a) *General.* (1) Under section 7121 of the Code and the regulations thereunder the Commissioner, or any officer or employee of the Internal Revenue Service authorized in writing by the Commissioner, may enter into and approve a written agreement with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period. Such agreement, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, shall be final and conclusive.

(2) Closing agreements under section 7121 of the Code may relate to any taxable period ending prior or subsequent to the date of the agreement. With respect to taxable periods ended prior to the date of the agreement, the matter agreed upon may relate to the total tax liability of the taxpayer or it may relate to one or more separate items affecting the tax liability of the taxpayer. A closing agreement may also be entered into in order to provide a "determination" as defined in section 1313 of the Code, and for the purpose of allowing a deficiency dividend deduction under section 547 of the Code. With respect to taxable periods ending subsequent to the date of the agreement, the matter agreed upon may relate to one or more separate items affecting the tax liability of the taxpayer. A closing agreement with respect to any taxable period ending subsequent to the date of the agreement is subject to any change in or modification of the law enacted subsequent to the date of the agreement and applicable to such taxable period, and each closing agreement shall so recite. Closing agreements may be entered into even though under the agreement the taxpayer is not liable for any tax for the period to which the agreement relates. There may be a series of agreements relating to the tax liability for a single period. A closing agreement may be entered into in any case in which there appears to be an advantage in having the case permanently and conclusively closed, or where good and sufficient reasons are shown by the taxpayer for desiring a closing agreement and it is determined by the Commissioner or his representatives that the Government will sustain no disadvantage through consummation of such an agreement.

(b) *Use of prescribed forms.* In cases in which it is proposed to close conclusively the total tax liability for a taxable period ended prior to the date of the agreement, Form 866, Agreement as to Final Determination of Tax Liability, will be used. In cases in which agreement has been reached as to the disposition of one or more issues and a closing agreement is considered necessary to insure consistent treatment of such issues in any other taxable period, Form 906, Closing Agreement as to Final Determination Covering Specific Matters, generally will be used. A request for a closing agreement which relates to a past period (Form 866 or Form 906) may be submitted at any time before the case is docketed in the Tax Court of the United States. The request should be submitted to the district director of internal revenue with whom the return for the period involved was filed, or if the matter to which the request relates is pending before an office of the Appellate Division, the request should be submitted to such office. A request for a closing agreement which relates to a subsequent period should be submitted to the Commissioner of Internal Revenue, Washington 25, D. C.

(c) *Review and approval.* All closing agreements initiated in the field offices are reviewed in the Appellate Division in Washington. After review in the Appellate Division proposed closing agreements are referred to the Office of the Commissioner for consideration. Proposed closing agreements which are acceptable to the Service are finally approved by the Commissioner or other officer to whom such authority has been delegated. After approval of a closing agreement affecting or relating to tax liability for a period ending subsequent to the date of the agreement, the appropriate regional commissioner or district director is fully advised as to the basis of the agreement in order that, through maintenance of proper controls, the Government may be insured against loss through failure to give effect to all the terms thereof in the determination of taxes for periods ending subsequent to the date of the agreement.

(d) *Applicability of ruling requirements.* The requirements relating to rulings (see § 601.201) shall be applicable with respect to requests for closing agreements, whether for closing agreements with respect to total tax liability (Form 866) or for closing agreements with respect to a determination as to one or more separate issues affecting the tax liability of a taxpayer (Form 906)

§ 601.203 *Offers in compromise*—(a) *General.* (1) Under section 7122 of the

Code the Commissioner may compromise any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense. Certain functions of the Commissioner with respect to compromises of civil cases involving liability under $500 have been delegated to district directors of internal revenue. See paragraph (c) of this section. In civil cases involving liability of $500 or over and in criminal cases the functions of the General Counsel are performed by the Chief Counsel for the Internal Revenue Service.

(2) An offer in compromise of taxes, interest, ad valorem penalties, or specific penalties may be based on either inability to pay or doubt as to liability. Offers in compromise arise usually when payments of assessed liabilities are demanded, ad valorem penalties for delinquency in filing returns are asserted, or specific civil or criminal penalties are incurred by taxpayers. A criminal liability will not be compromised unless it involves only the regulatory provisions of the Internal Revenue Code and related statutes. However, if the violations involving the regulatory provisions are deliberate and with intent to defraud, the criminal liabilities will not be compromised.

(b) *Use of prescribed forms.* Offers in compromise are required to be submitted on Form 656 or Form 656–C, properly executed, accompanied by a financial statement on Form 433. Form 656 is used in all cases where the amount of the offer is tendered in full at the time the offer is filed, and Form 656–C is used where the amount of the offer is to be paid by deferred payment or payments. Copies of these forms may be obtained from district directors of internal revenue. An offer in compromise should be filed with the district director charged with the duty of collecting the tax sought to be compromised.

(c) *Consideration of offer* (1) An offer in compromise is first considered by the district director with whom the offer is filed. An internal revenue agent, after investigation of the financial condition of the taxpayer, makes a written recommendation for acceptance or rejection of the offer. If the district director has jurisdiction over the processing of the offer he will—

(i) Reject the offer, or

(ii) Accept the offer if it involves a civil liability under $500, or

(iii) Recommend to the National Office the acceptance of the offer if it involves a liability of $500 or over.

If the district director does not have jurisdiction over the entire processing of the offer, the offer is transmitted to the appropriate Regional Counsel if the case is one in which:

(*a*) Recommendations for prosecution are pending in the Office of the Chief Counsel, the Department of Justice, or in an office of a United States attorney, including cases in which criminal proceedings have been instituted but not disposed of and related cases in which offers in compromise have been submitted or are pending;

(*b*) The taxpayer is in receivership or is involved in a proceeding under any provision of the Bankruptcy Act;

(*c*) The taxpayer is deceased (without regard to the class of tax involved),

(*d*) A proposal is made to discharge property from the effect of a tax lien or liens;

(*e*) An insolvent bank is involved;

(*f*) An assignment for the benefit of creditors is involved;

(*g*) A liquidation proceeding is involved; or

(*h*) Court proceedings are pending, except Tax Court cases.

(*i*) The Regional Counsel considers and processes offers submitted in cases described in subdivisions (*a*) through (*h*) of this subparagraph with the exception of offers submitted in those cases being handled in the Office of the Chief Counsel in Washington. Where a case described in subdivisions (*a*) through (*h*) of this subparagraph is being handled in the Office of the Chief Counsel in Washington, consideration and processing of the offer is accomplished in Washington, D. C.

(2) In those cases described in subdivision (*a*) of this subparagraph no investigation will be made unless specifically requested by the office having jurisdiction of the criminal case.

(3) In those cases described in subdivisions (*b*) through (*h*) of this subparagraph the district director retains the duplicate copy of the offer and the financial statement for investigation. After investigation, the district director transmits to the appropriate Regional Counsel for consideration and processing his recommendation for acceptance or rejection of the offer together with the internal revenue agent's report of his investigation.

(4) An offer under the processing jurisdiction of the Regional Counsel which is considered acceptable is either referred to the district director or to the Office of the Chief Counsel in Washington for approval, depending upon whether the amount of civil liability involved is under $500 or $500 or more.

(2) The district directors and the Director of the Audit Division of the National Office are authorized to reject any offer in compromise referred for their consideration. Offers considered in the Office of the Chief Counsel in Washington which are not acceptable are rejected by the Commissioner. Offers considered by Regional Counsel which are not acceptable are rejected by district directors. If an offer is not acceptable, the taxpayer is promptly notified of the rejection of the offer. If an offer is rejected, the sum submitted with the offer is returned by the district director to the proponent. An offer rejected by a district director is surveyed in the Audit Division in the National Office.

(3) If an offer other than one accepted by the district director is considered acceptable by the office having jurisdiction over the offer, a recommendation for acceptance is forwarded to the Audit Division in the National Office for review. If the Audit Division approves the recommendation for acceptance, the offer is forwarded to the Office of the Chief Counsel for approval. After approval by the Office of the Chief Counsel, it is forwarded to the Commissioner for acceptance. The taxpayer is notified of the acceptance of the offer in accordance with its terms. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does acceptance of an offer in compromise of criminal liabilities remit civil liabilities.

(d) *Conferences.* Before filing a formal offer in compromise, a taxpayer may request a conference in the office which would have jurisdiction of the offer filed by him for the purpose of exploring the possibilities of compromising the unpaid Federal tax liability. A conference may also be requested by the taxpayer in the office which has jurisdiction of the offer filed by him after all investigations have been made for the purpose of determining the amount which may be accepted as a compromise. Where the offer is one with respect to which the district director has processing jurisdiction and the proponent does not agree with the rejection or proposed rejection, and neither the internal revenue agent nor the conferee of the district director's office has been able to convince the proponent of the correctness of the conclusion reached, the proponent will be apprised of his privilege of submitting a request in writing for a hearing before the Chief of the Appellate Division of the region. Taxpayers and their representatives are required to fulfill and comply with the conference and practice requirements of the Internal Revenue Service (see §§ 601.501–601.512).

§ 601.204 *Changes in accounting periods and in methods of accounting*—(a) *Accounting periods.* A taxpayer who changes his accounting period shall, before using the new period for income tax purposes, comply with the provisions of the income tax regulations relating to changes in accounting periods. In cases where the regulations require the taxpayer to secure the consent of the Commissioner to the change, the application for permission to change the accounting period shall be made on Form 1128 and shall be submitted to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of time prescribed in such regulations. See section 442 and the regulations thereunder (under the 1939 Code, § 39.46–1 of Regulations 118) If the change is approved by the Commissioner, the taxpayer shall thereafter make his returns and compute his net income upon the basis of the new accounting period. A request for permission to change the accounting period will be considered by the Tax Rulings Division of the National Office.

(b) *Methods of accounting.* A taxpayer who changes the method of accounting employed in keeping his books shall, before computing his income upon such method for purposes of income taxation, comply with the provisions of the income tax regulations relating to changes in accounting methods. The regulations require that, in the ordinary case, the taxpayer secure the consent of the Commissioner to the change. See section 446 and the regulations thereunder (under the 1939 Code, § 39.41–2 of Regulations 118). Application for permission to change the method of accounting employed and the basis upon which the return is made shall be filed

with the Commissioner of Internal Revenue, Washington 25, D. C., within the period of time prescribed in the regulations. The application shall be accompanied by a statement specifying the classes of items differently treated under the two methods and specifying all amounts which would be duplicated or entirely omitted as a result of the proposed change. Permission to change the method of accounting will not be granted unless the taxpayer and the Commissioner agree to the terms and conditions under which the change will be effected. The request will be considered by the Tax Rulings Division, except that if the proposed change relates to depletion, depreciation or obsolescence the request will be considered by the Special Technical Services Division.

§ 601.205 *Tort claims.* Claims for property loss or damage, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the Service, acting within the scope of his office or employment, filed under the Federal Tort Claims Act, as amended, must be prepared and filed in accordance with Treasury Department regulations entitled "Central Office Procedures" and "Claims Regulations" (31 CFR, Parts 1 and 3) Such regulations contain the procedural and substantive requirements relative to such claims, and set forth the manner in which they are handled. The claims should be filed with the Commissioner of Internal Revenue, Washington 25, D. C., and must be filed within two years after the accident or incident occurred.

SUBPART C—PROVISIONS RELATING TO ALCOHOL, TOBACCO, AND CERTAIN FIREARMS [RESERVED]

[Reserved for revised statement of procedures of the Service with respect to alcohol, tobacco, and certain firearms taxes to be published at a later date.]

SUBPART D—PROVISIONS SPECIAL TO CERTAIN EMPLOYMENT AND EXCISE TAXES

§ 601.401 *Employment taxes*—(a) *General*—(1) *Description of taxes.* Federal employment taxes are imposed by Subtitle C of the Internal Revenue Code. Chapter 21 (Federal Insurance Contributions Act) imposes a tax on employers of one or more individuals and also a tax on employees, with respect to "wages" paid and received. Chapter 22 (Railroad Retirement Tax Act) imposes a tax on employers and their employees with respect to "compensation" paid and received. It also imposes a tax on employee representatives with respect to "compensation" received. Chapter 23 (Federal Unemployment Tax Act) imposes a tax on employers of eight or more individuals (four or more individuals beginning with the calendar year 1956) with respect to "wages" paid. Chapter 24 (collection of income tax at source on wages) requires every employer making payment of "wages" to deduct and withhold upon such wages the tax computed or determined as provided therein. The tax so deducted and withheld is allowed as a credit against the income tax liability of the employee receiving such wages.

(2) *Applicable regulations.* The descriptive terms used in this section to designate the various classes of taxes are intended only to indicate their general character. Specific information relative to the scope of each tax, the forms used, and the functioning of the Service with respect thereto is contained in the applicable regulations. Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from the district director of internal revenue.

(3) *Collection methods.* Employment taxes are collected by means of returns and by withholding by employers. Employment tax returns are not required to be filed by employees, but taxes imposed upon them must be deducted and withheld by employers from their wages. Employee representatives (as defined in the Railroad Retirement Tax Act) are required to file returns. All employers who are liable for or who must withhold employment taxes are required to file returns with the district director of internal revenue. The return of the Federal unemployment tax is required to be filed annually on Form 940 with respect to wages paid during the calendar year. All other returns of Federal employment taxes are required to be filed for each calendar quarter. The employer and employee taxes imposed by chapter 21 and the tax required to be deducted and withheld upon wages by chapter 24 are combined in a single return on Form 941. In the case of wages paid by employers for domestic service performed in a private home not on a farm operated for profit, the return of both the employee tax and the employer tax imposed by chapter 21 is on Form 942. However, if the employer is required to file a return for the same quarter on Form 941, he may at his election include the taxes with respect to such domestic service on Form 941. For information relating to the employee tax and the employer tax with respect to wages paid for agricultural labor, see the applicable regulations under chapter 21. Under the Railroad Retirement Tax Act, the return required of the employer is on Form CT–1, and the return required of each employee representative is on Form CT–2.

(4) *Receipts for employees.* Employers are required to furnish each employee a receipt or statement, in duplicate, showing the total wages subject to income tax withholding, the amount of income tax withheld, the amount of wages subject to tax under the Federal Insurance Contributions Act, and the amount of employee tax withheld. See section 6051 of the Code.

(5) *Use of Federal Reserve banks and authorized commercial banks in connection with payment of Federal employment taxes.* If during any calendar month the aggregate amount of

(i) The employer tax and the employee tax imposed by chapter 21, and

(ii) The income tax withheld at source on wages under chapter 24,

exclusive of taxes reportable on Form 942, exceeds $100, it is the duty of the employer to deposit such amount within 15 days after the close of such calendar month with a Federal Reserve bank or a commercial bank authorized in accordance with Treasury Department Circular No. 848 to accept remittance of these taxes for transmission to a Federal Reserve bank. The remittance of such amount must be accompanied by a Federal Depositary Receipt (Form 450) After the Federal Reserve bank has validated the depositary receipt, it will be returned to the employer. The validated receipts must be attached to the return on Form 941 for the calendar quarter with respect to which such deposits are made, and the employer shall pay to the district director the balance, if any, of the taxes due for the quarter. In the case of the last month of any calendar quarter the employer may either include with his return direct remittance to the district director for the amount of such taxes or attach to the return a depositary receipt validated by a Federal Reserve bank. If a deposit is made for the last month of the quarter, it must be made in ample time to enable the Federal Reserve bank to return the validated receipt to the employer so that it can be attached to and filed with the employer's return at the time prescribed for filing such return. A similar procedure is prescribed with respect to the tax on employers and employees imposed by chapter 22, except that the depositary receipt prescribed in such cases is Form 515 (Railroad Retirement Depositary Receipt)

(b) *Provisions special to the Federal Insurance Contributions Act*—(1) *Employers' identification numbers.* For purposes of the Federal Insurance Contributions Act each employer who files Form 941 must have an identification number. Any such employer who does not have an identification number must secure a Form SS–4 from the district director of internal revenue or from a district office of the Social Security Administration and, after executing the form in accordance with the instructions contained thereon, file it with the district director or the district office of the Social Security Administration. At a subsequent date the district director will assign the employer a number which must appear in the appropriate space on each tax return, Form 941, filed thereafter. The requirement to secure an identification number does not apply to an employer who has in his employ only employees who are engaged exclusively in the performance of domestic service in his private home not on a farm operated for profit.

(2) *Employees' account numbers.* Each employee (or individual making a return of net earnings from self-employment) who does not have an account number must file an application on Form SS–5, a copy of which may be obtained from any district office of the Social Security Administration or from a district director of internal revenue. The form, after execution in accordance with the instructions thereon, must be filed with the district office of the Social Security Administration, and at a later date the employee will be furnished an account number. The employee must furnish such number to each employer for whom the employee works, in order that

such number may be entered on each tax return filed thereafter by the employer.

(3) *Reporting of wages.* Form 941 requires as a part of the return that the wages of each employee paid during the quarter be reported thereon. It is necessary at times that employers correct wage information previously reported. A special form, Form 941c, has been adopted for use in correcting erroneous wage information or omissions of such wage information on Schedule A of Form 941. Instructions on Form 941 and on Form 941c explain the manner of preparing and filing the forms. Any further instructions should be obtained from the district director for the district in which the returns are filed.

(c) *Quarterly adjustments by employers*—(1) *Adjustments with respect to income tax withheld at source upon wages.* If an employer for any quarter of a calendar year deducts and withholds more or less than the correct amount of tax upon wages, or pays more or less than the correct amount of tax to the district director, such employer may make proper adjustment without interest in any subsequent quarter in the same calendar year. No adjustment may be made in respect of an underpayment for any quarter after the district director sends notice and demand for payment of the additional tax. In such case the additional tax must be paid in accordance with the notice and demand. Nor may any adjustment be made in respect of an overpayment for any quarter after the employer files a claim for refund of such overpayment. If an employer makes an adjustment on any return in respect of errors in a preceding quarter there must be attached to the return a detailed explanation of the adjustment and a designation of the quarterly return period in which the errors occurred. If an adjustment relates to an excess withholding of tax from an employee, the explanation attached to the return must include the fact that such tax has been repaid to the employee. Errors occurring in any quarterly return period may be corrected in making the return for such period, if such errors are ascertained prior to the filing of the return. For information as to the manner of correcting errors in withholding which cannot be adjusted in a return for a subsequent quarter of the same calendar year, employers should consult the local district director of internal revenue. Refunds or credits with respect to an overpayment of income tax withheld may be made to an employer only to the extent that the amount of the overpayment was not deducted and withheld by the employer.

(2) *Adjustments with respect to employee tax or employer tax under the Federal Insurance Contributions Act or the Railroad Retirement Tax Act.* Errors in withholding during any quarterly period under the Federal Insurance Contributions Act or the Railroad Retirement Tax Act should be corrected in the return for such quarter, if such errors are ascertained prior to the time the return is required to be filed with the district director. In the case of errors in withholding of employee tax or in payments of employer tax under either the Federal Insurance Contributions Act or the Railroad Retirement Tax Act, where such errors are ascertained subsequent to the time prescribed for filing the return for the quarterly period in which they occurred, the regulations relating to such taxes prescribe the conditions under which such errors may be adjusted. If adjustments cannot be made in accordance with the provisions of such regulations, underpayments of both the employer and employee tax will be assessed and collected in the usual manner, and refunds of overpayments must be claimed on Form 843.

(d) *Special refunds of employee social security tax.* (1) In the case of an employee receiving wages from more than one employer during the calendar year, amounts may be deducted and withheld as employee social security tax (that is, employee tax under the Federal Insurance Contributions Act) with respect to wages in excess of $4,200 ($3,600 for certain calendar years prior to 1955). Under certain conditions, the employee may receive a so-called "special refund" of the amount of employee social security tax deducted and withheld from wages in excess of such amount. An employee who is entitled to a special refund of employee tax with respect to wages received during a calendar year commencing after December 31, 1950, and who is required to file an income tax return for such calendar year (or for his last taxable year beginning in such calendar year) may obtain the benefits of such special refund only by claiming credit for such special refund on such income tax return in the same manner as if such special refund were an amount deducted and withheld as income tax at source on wages.

(2) The amount of the special refund allowed as a credit shall be considered as an amount deducted and withheld as income tax at source on wages. If the amount of such special refund when added to amounts deducted and withheld as income tax under chapter 24 exceeds the income tax imposed by chapter 1, the amount of the excess constitutes an overpayment of income tax, and interest on such overpayment is allowed to the extent provided under section 6611 of the Code upon an overpayment of income tax resulting from a credit for income tax withheld at source on wages.

(3) If an employee entitled to a special refund of employee social security tax is not required to file an income tax return for the year in which such special refund may be claimed as a credit, he may file a claim for refund of the excess social security tax on Form 843. The employee shall submit with the claim as a part thereof a statement executed by him on Form SS-9a. Claims must be filed with the district director of internal revenue for the district in which the employee resides.

§ 601.402 *Sales taxes collected by return*—(a) *General.* Sales taxes collected by return include the following:

(1) The retailers excise taxes, imposed by chapter 31 of the Code, with respect to the following articles:

Jewelry and related items.
Furs.
Toilet preparations.
Luggage, handbags, etc.
Special fuels.

(2) The manufacturers excise taxes, imposed by chapter 32 of the Code, with respect to the following items:

(i) Automotive and related items:

Motor vehicles.
Tires and tubes.
Petroleum products.

(ii) Household type equipment, etc..

Refrigeration equipment.
Electric, gas, and oil appliances.
Electric light bulbs.

(iii) Entertainment equipment:

Radio and television sets, phonographs, and records.
Musical instruments.

(iv) Recreational equipment:

Sporting goods.
Photographic equipment.
Firearms.

(v) Other items:

Business machines.
Pens and mechanical pencils and lighters.
Matches.

(b) *Applicable regulations.* The descriptive terms used in this section to designate the various articles and commodities subject to tax are intended only to indicate their general classes. Specific information relative to the scope of each tax, the forms used, and the functioning of the Service with respect thereto is contained in the applicable regulations. Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from any district director of internal revenue.

(c) *Returns, refunds, and credits*—(1) *Returns.* The sales taxes referred to in paragraph (a) of this section are collected by means of returns. Any person liable for tax is required to file returns with the district director of internal revenue for the district in which the principal place of business of such person is located. A procedure similar to the Depositary Receipt procedure with respect to the payment of certain Federal employment taxes, described in § 601.401 (a) (5) is prescribed with respect to the sales taxes referred to in paragraph (a) of this section. For information relating to the use of depositary receipts for the payment of such taxes, see the applicable regulations and the instructions on Form 720, Quarterly Federal Excise Tax Return.

(2) *Refunds and credits.* After the assessment and collection of a sales tax which the taxpayer claims is not due, the taxpayer may either file a claim for refund of such tax on Form 843 or claim a credit for such amount on a return filed by him for a period subsequent to that in respect of which the alleged erroneous payment has been made. However, no claim for refund may be filed or credit taken on a return after the expiration of the applicable period of limitations on the allowance of refunds and credits. In the case of a credit claimed for an amount of tax alleged to have been erroneously paid, no particular forms for the claiming of such a credit are prescribed. The procedure to be followed in such a case is for the taxpayer to enter on the line provided for credits on the return form the amount claimed to have been erroneously paid and to file

with the return a supporting statement which should set out clearly and fully the basis on which the credit is claimed. Notice as to the disallowance of any credit is forwarded to the taxpayer and the amount of the credit is then entered on an assessment list for collection in the usual manner.

(d) *Registration and bonding requirements.* (1) Every producer or importer of gasoline and every producer of lubricating oils must make application for registry to the district director of internal revenue for the district in which his principal place of business is located. In addition, the regulations relating to manufacturers excise taxes under chapter 32 of the Code provide, with respect to the sale or purchase of a taxable article (other than a tire, inner tube, or automobile radio or television receiving set) for further manufacture of other taxable articles or for resale for such purpose, that persons desiring to sell or purchase an article tax-free must make application for registry in the same manner. The form provided is Form 637–A, Application for Registry, copies of which may be obtained from the district director. The form should be prepared in accordance with the instructions shown thereon and the provisions of the applicable regulations. In the case of producers and importers of gasoline and producers of lubricating oil, the application must also be accompanied by a bond on Form 928 in a sum equivalent to the approximate amount of tax which might be incurred by the taxpayer during an average 3-month period at the rates of the tax then in effect, but in no case shall the bond be for less than $2,000.

(2) Upon receipt by the district director of the application for registry and, in the case of gasoline and lubricating oil, upon acceptance of the bond required, the district director will furnish to the applicant Form 637, Certificate of Registry, which will bear the applicant's registration number. Detailed instructions as to the use of this number and as to the requirements to be complied with in connection with the filing of applications for registry and the submission of bonds are set forth in the applicable regulations.

§ 601.403 *Miscellaneous excise taxes collected by return*—(a) *General.* Miscellaneous excise taxes collected by return include the following:

(1) *Admissions, cabaret, dues and initiation fees.* Subchapter A of chapter 33 of the Internal Revenue Code imposes a tax on admissions (including a tax on amounts charged by ticket brokers, box office employees, and others in excess of the established price) and on charges made by cabarets, roof gardens and other similar places. Subchapter A of chapter 33 also imposes certain taxes on amounts paid as dues or initiation fees to any social, athletic, or sporting club or organization.

(2) *Communications.* Subchapter B of chapter 33 of the Code imposes a tax on amounts paid for local telephone service; long distance telephone and radio telephone messages or conversations; telegraph, cable or radio dispatches or messages; leased wire or teletypewriter services; and wire and equipment services.

(3) *Transportation.* Subchapter C of chapter 33 of the Code imposes a tax with respect to various kinds of transportation services as follows:

(i) Transportation of persons, including seating or sleeping accommodations furnished in connection with such transportation.

(ii) Transportation of property.

(iii) Transportation of oil by pipe line.

(4) *Wagers.* Subchapter A of chapter 35 of the Code imposes a tax on wagers as defined therein.

(5) *Safe deposit boxes.* Subchapter D of chapter 33 of the Code imposes a tax on the amount collected for the use of a safe deposit box.

(6) *Coconut and other vegetable oils.* Chapter 37 of the Code imposes a tax upon the first domestic processing of coconut oil, palm oil, palm-kernel oil, fatty acids derived from any of the foregoing oils, salts from any of the foregoing or any combination or mixture containing a substantial quantity of any one or more of such oils, fatty acids or salts.

(7) *Sugar* Chapter 37 of the Code also imposes a tax upon manufactured sugar manufactured in the United States.

(8) *Circulation other than of national banks.* Subchapter E of chapter 39 of the Code imposes a tax with respect to (i) the average circulation outstanding of any bank, association, corporation, company or person, and (ii) the circulation paid out by every person, firm, association other than national bank associations, and every corporation, State bank, or State banking association.

(9) *Hydraulic mining.* The act entitled "An Act to create the California Debris Commission and regulate hydraulic mining in the State of California", approved March 1, 1893, as amended (33 U. S. C. 661–687) imposes a tax with respect to certain hydraulic gold mining in the State of California.

(b) *Applicable regulations.* The descriptive terms used in this section to designate the various classes of taxes are intended only to indicate their general character. Specific information relative to the scope of each tax, the forms used, and the functioning of the Service with respect thereto is contained in the applicable regulations. Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from the district director of internal revenue.

(c) *Collection of tax*—(1) *Imposed taxes.* The tax on charges made by cabarets, roof gardens and other similar places, the taxes on admission charges in excess of the established price, the tax on the transportation of oil by pipeline, the tax on the first domestic processing of certain vegetable oils, and the tax on the manufacture of sugar, are collected in the same manner as manufacturers' and retailers' sales taxes. See § 601.402. The tax on wagers, the tax on hydraulic mining, and the tax on circulation other than of national banks are also collected by means of returns. The returns of the tax on wagers are required to be filed monthly; returns of tax on hydraulic mining are required to be filed annually; and the returns of the tax on circulation are required to be filed on June 1 and December 1 of each calendar year.

(2) *Collected taxes.* The other miscellaneous excise taxes referred to in this section are imposed on the person making the payment for the admission, telephone, transportation or other service involved. These taxes are required to be collected by the theater, telephone company, railroad, or other person receiving the payment. All taxes collected in this manner are held by the collecting agent in trust for the United States until deposited in accordance with the Depositary Receipt procedure or paid over to the district director of internal revenue. The collecting agencies are required to file returns and the tax is payable, without notice from the district director, at the time fixed for filing the returns. If the person from whom the tax is required to be collected refuses to pay it or, if for any reason it is impossible for the collecting agency to collect the tax from such person, the collecting agency is required to report to the district director of internal revenue for the district in which its returns are required to be filed the name and address of such person, the nature of the service or facility rendered, the amount paid therefor, and the date on which paid. Upon receipt of this information the amount of the tax due will be assessed against the person to whom the facilities were provided or the services rendered.

(3) *Depositary receipts.* A procedure similar to the Depositary Receipt procedure with respect to the payment of certain Federal employment taxes, described in § 601.401 (a) (5), is prescribed with respect to the miscellaneous excise taxes (except the taxes on wagers, hydraulic mining, and circulation other than of national banks) referred to in paragraph (a) of this section. For information relating to the use of depositary receipts for the payment of such taxes, see the applicable regulations and the instructions on Form 720, Quarterly Federal Excise Tax Return.

(d) *Licensing and registration*—(1) *Admissions.* Every person (i) required by any provision of law to collect any tax on admissions, or (ii) being the owner or lessee of any place which he ordinarily or at times leases or subleases to other persons who impose charges for admissions to it, or (iii) required to pay any tax on charges in excess of established prices, or (iv) required to pay tax on charges for admission, refreshment, service and merchandise at any roof garden, cabaret, or other similar place furnishing a public performance for profit, is required to make application for registry. The form provided for this purpose is Form 752, Application for Registry, which may be obtained from district directors of internal revenue. The form should be prepared in accordance with the instructions shown thereon and the provisions of the applicable regulations. The district director, if satisfied that all statements made in the application for registry are correct, will issue a certificate of registry on Form 753 to the person who made the application. This certificate of registry must be kept con-

spicuously posted in the principal place of business of the registrant, or be carried about with him if he has no fixed place of business. This certificate is not transferable from one person or firm to another.

(2) *Hydraulic mining.* Every person who desires to engage in hydraulic mining operations in the State of California within the scope of the Act (see paragraph (a) (9) of this section) must procure a license to operate the mine from the California Debris Commission before beginning operations, in accordance with the rules and regulations promulgated by that Commission.

(3) *Transportation of property.* Every person engaged in the business of transporting property for hire shall, within 60 days after first engaging in such business, register his name and place of business with the district director of internal revenue for the district in which is located his principal place of business. The form provided for this purpose is Form 800, Application for Registry, which may be obtained from the district director. The form should be prepared in accordance with the instructions shown thereon and the provisions of the applicable regulations. The district director receiving the application for registry will issue Certificate of Registry, Form 800A, which must be posted in the registered place of business.

(4) *Wagering.* For the occupational tax upon any person liable for the tax on wagers or engaged in receiving wagers for or on behalf of any person so liable, see § 601.404 (d) (1)

§ 601.404 *Miscellaneous excise taxes collected by sale of revenue stamps*—(a) *General.* Miscellaneous excise taxes collected by sale of revenue stamps may be grouped into 3 general classes. A brief description of each class is set forth in the 3 paragraphs immediately following.

(b) *Documentary stamp taxes*—(1) *Capital stock, certificates of indebtedness, deeds of conveyance, and foreign insurance policies.* Chapter 34 of the Internal Revenue Code imposes a tax on the issuance of corporate certificates of indebtedness, capital stock, or similar instruments, and foreign insurance policies. Chapter 34 of the Code also imposes a tax on all sales or transfers of corporate certificates of indebtedness, capital stock, or similar instruments, and on deeds of conveyance of realty sold.

(2) *Cotton futures.* Subchapter D of chapter 39 of the Code imposes a tax on each contract of sale of any cotton for future delivery unless the contract complies with certain specified conditions.

(3) *Silver bullion.* Subchapter F of chapter 39 of the Code imposes a tax on the net profit realized on the transfer of any interest in silver bullion, subject to certain exemptions and abatements to registered dealers and producers.

(c) *Commodity stamp taxes*—(1) *Oleomargine.* Subchapter F of chapter 38 of the Code imposes a tax with respect to all oleomargarine imported from foreign countries.

(2) *Adulterated and process or renovated butter* Part I of subchapter C of chapter 39 of the Code imposes taxes with respect to adulterated and process or renovated butter and also imposes an occupational tax on manufacturers of adulterated and process or renovated butter and on wholesale and retail dealers in adulterated butter.

(3) *Filled cheese.* Part II of subchapter C of chapter 39 imposes a tax with respect to filled cheese and also imposes an occupational tax on manufacturers of, and wholesale and retail dealers in, filled cheese.

(4) *Opium, isonipecaine, opiates, and coca leaves.* Part I of subchapter A of chapter 39 of the Code imposes a tax upon narcotic drugs produced in or imported into the United States, and sold, or removed for consumption or sale and also imposes an occupational tax on (i) importers, manufacturers, producers or compounders of such drugs; (ii) wholesale or retail dealers in such drugs; (iii) physicians, dentists, veterinary surgeons or other practitioners dispensing such drugs; (iv) persons engaged in research, instruction or analysis using such drugs; and (v) persons not otherwise taxed dispensing preparations containing such drugs. The responsibility for the administration and enforcement of these taxes is jointly shared by the Internal Revenue Service and the Bureau of Narcotics.

(5) *Opium for smoking purposes.* Subpart B of part I of subchapter A of chapter 39 of the Code imposes a tax upon all opium manufactured in the United States for smoking purposes. The responsibility for the administration and enforcement of this tax is jointly shared by the Internal Revenue Service and the Bureau of Narcotics.

(6) *Marihuana.* Part II of subchapter A of chapter 39 of the Code imposes a tax upon all transfers of marihuana and also imposes an occupational tax with respect to marihuana on similar classes of persons as those enumerated in subparagraph (4) of this paragraph and in addition imposes a tax on millers of marihuana. The responsibility for the administration and enforcement of this tax is jointly shared by the Internal Revenue Service and the Bureau of Narcotics.

(7) *Playing cards.* Subchapter A of chapter 36 of the Code imposes a tax on playing cards manufactured or imported, and sold, or removed for consumption or sale.

(8) *White phosphorous matches.* Subchapter B of chapter 39 of the Code imposes a tax upon white phosphorous matches.

(d) *Occupational stamp taxes*—(1) *Wagers.* Subchapter A of chapter 35 of the Code imposes a tax on wagers. Subchapter B of chapter 35 of the Code imposes an occupational tax upon each person who is liable for the tax on wagers or who is engaged in receiving wagers for or on behalf of any person so liable.

(2) *Coin-operated amusement or gaming devices.* Subchapter B of chapter 36 of the Code imposes an occupational tax with respect to coin-operated amusement or gaming devices.

(3) *Bowling alleys, billiard and pool tables.* Subchapter C of chapter 36 of the Code imposes an occupational tax with respect to bowling alleys, billiard tables, and pool tables.

(e) *Applicable regulations.* The descriptive terms used in this section to designate the various classes of taxes are intended only to indicate their general character. Specific information relative to the scope of each tax, the forms used, and the functioning of the Service with respect thereto is contained in the applicable regulations. Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from the district director of internal revenue.

(f) *General procedure.* (1) The documentary and commodity stamp taxes are paid by having affixed to the document, memorandum of sale, policy, package, container, etc., an internal revenue adhesive stamp or stamps in an amount equal to the tax due and by thereafter canceling such stamps in the manner prescribed. Payment of occupational taxes is evidenced by the posting or displaying of a special occupational tax stamp on the premises where the business is operated. If the taxpayer required to display the special occupational tax stamp has no fixed place of business, the stamp must be kept on his person. The stamps used for such purposes are prepared by the Internal Revenue Service and distributed through district directors of internal revenue.

(2) Documentary stamp taxes are payable with respect to every transaction, i. e., each issue, sale, transfer, etc., of the instrument subject to tax. Commodity stamp taxes are payable with respect to the manufacture, importation, or transfer, as the case may be, of the contents of each package or container. Occupational taxes are payable annually for the privilege of doing business beginning with July 1 of each year, when the taxpayer is in business on that date, or from the beginning of the month in which the business is commenced on a pro rata basis.

(3) Documentary stamps may be purchased from (i) district directors of internal revenue and duly authorized internal revenue employees; (ii) postmasters in all post offices of the first and second classes and such post offices of the third and fourth classes as are located in county seats; (iii) designated depositaries of the United States; and (iv) designated agents of any State. Commodity and occupational tax stamps may be purchased only from district directors and duly authorized internal revenue agents. Such purchases may be made only upon the filing of the prescribed requisition, application, or other form and from an official authorized by law to sell such stamps.

(4) Prior to January 1, 1955, payment for such stamps must be made by means of cash, post office money order or certified check. On and after January 1, 1955, payment for such stamps may be made by personal checks to the extent provided by regulations. In situations (i) where the instruments, documents, commodities, etc., subject to stamp tax are no longer in existence or (ii) where,

for other reasons, such instruments, documents, etc., cannot be stamped, or (iii) where it is discovered that occupational tax stamps are due for prior taxable years, or (iv) where a taxpayer, after being advised of his liability, refuses to affix stamps, the tax is collected by assessment.

(5) Detailed information as to the person liable for tax, the forms of stamps, the prescribed applications or requisitions, and all other forms required in connection with miscellaneous excise taxes payable by revenue stamps is contained in the applicable regulations. Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from the district director of internal revenue.

(g) *Liability for additional or delinquent tax.* When liability for additional or delinquent tax is disclosed by the taxpayer or is discovered as a result of an examination of the taxpayer's books and records, payment thereof is evidenced by means of the prescribed stamp if the document, commodity, etc., is still in existence or, in the case of an occupational tax, if the liability is for the current period. Where the documents, commodities, etc., are no longer in existence, or where the taxpayer refuses to affix or purchase the stamps or where, in the case of an occupational tax, the liability is for a prior taxable period, the additional or delinquent tax is collected by assessment.

(h) *Administrative remedies available to taxpayers after purchase of documentary, commodity, or occupational tax stamps or after assessment or payment of tax*—(1) *Redemption of stamps.* Where stamps have been rendered useless by gumming or sticking together in transit or otherwise without fault of the purchaser, they may be exchanged by a district director of internal revenue for other stamps of the same quantity and denomination. Stamps which have been spoiled, destroyed, or rendered useless, or unfit for the purpose intended, or for which the owner may have no use, or which through mistake have been improperly or unnecessarily used, or have been used in excess of the amount of tax actually due, may be redeemed upon proper claim filed with the district director. All such claims must be prepared on Form 843 and must be filed with the district director for the district in which is located the principal office of the claimant, or if he has no such office, with the district director for the district in which he resides. The claim must be filed within 3 years after the date of purchase of the stamps from the Government. The stamps either must be submitted with the claim, or if it is impracticable to remove them from the instruments, documents, etc., to which they are attached they must be presented to an internal revenue agent or other internal revenue representative who will write on the face of the stamps the words "Claim for refund filed" and attach to the claim a statement showing that such endorsement has been made. In any case where the actual date of purchase of the stamps from the Government cannot be given, it must be definitely shown in the claim whether they were so purchased within 3 years prior to the date of filing of the claim. Once filed, a claim for redemption follows generally the same channels as do all other claims for refund. See §§ 601.103–601.106.

(2) *Claims for abatement or refund.* Where a stamp tax is not paid by stamp but the amount thereof is assessed, the person against whom the assessment is made may file a claim for abatement of the tax or a claim for refund for any part of the assessment which has been paid. In either case the procedure to be followed by the claimant generally is the same as set forth in the case of claims for abatement or refund of other taxes. See §§ 601.103–601.106. All claims for refund of stamp tax paid pursuant to an assessment must be filed within 3 years next after payment of the tax.

(3) *Instructions.* Detailed instructions as to the manner in which claims for redemption of stamps and for abatement and refund of stamp taxes should be prepared and filed are contained in the applicable regulations.

(i) *Provisions special to documentary stamp taxes.* (1) Every person engaged in any of the following businesses or activities is required to register with the district director of internal revenue for each district in which such business or activity is conducted: (i) negotiating, making, or recording sales or transfers of stock, certificates of indebtedness, etc., (ii) conducting or transacting a stock or bond brokerage business; (iii) accepting or procuring the transmission of orders for the purchase or sale or transfer of stocks, etc., to be executed at a stock or bond brokerage office or an exchange or similar place; (iv) transferring stock, certificates of indebtedness, etc., other than his own; and (v) conducting an exchange or clearing house, or clearing association, for the clearing, adjusting and settling of transactions made on exchanges or similar places.

(2) A statement for such registration is required to be made on Form 741 procurable from district directors of internal revenue. The statement must set forth specifically the character of the business, the name under which it is operated, and the exact location. A concern having branches or agencies must file a statement in the district in which its principal office is located, showing the address of each branch office or agency and the name of the manager or agent thereof. A separate statement must also be filed in each of the other districts in which branches or agencies are maintained. The data shown in a statement covering a branch or agency must relate to such branch or agency rather than the principal office. For further information as to the proper execution of Form 741, see the applicable regulations.

(3) Any person conducting a stock brokerage business who has registered with the district director as provided above may appoint some person to act as nominee in holding stock on his behalf. Also, any person acting in the capacity of a custodian may appoint some person to act as nominee in holding stocks or certificates of indebtedness on his behalf. Any corporation may appoint some person to act as nominee to hold stock on its behalf. The name of the person appointed as nominee of a broker, custodian, or a corporation shall be registered with the district director for the district in which the principal place of business of the broker, custodian, or corporation is located. Substitution of a nominee may be effected by likewise registering the name of the successor nominee. No special form is prescribed for use in registering a nominee.

(4) Where proper registration statements have been filed, the district director will issue to such person a certificate of registration signed by the district director and setting forth the date of issue, the name of the person conducting the business and the nature of the business for which the certificate is issued. Such certificate must be kept at the place of business located within the district of the district director by whom the certificate is issued.

(j) *Provisions special to commodity stamp taxes.* (1) Provision is made for the withdrawal of filled cheese and playing cards from factories, free of tax, for the use of the United States. The procedure to be followed, the forms to be used, etc., in the case of such withdrawals are contained in the applicable regulations. Provision is also made for the exportation without payment of tax on adulterated butter and playing cards. The procedure to be followed, and the forms to be used, etc., in the case of such exportation are contained in the applicable regulations.

(2) Every manufacturer of opium manufactured in the United States for smoking purposes must, before commencing business, furnish to the district director of the district in which his place of manufacture is located a notice on Form 268 and a bond on Form 269 with sureties satisfactory to the district director and in a penal sum of not less than $100,000. There shall be not less than 3 personal sureties, each of whom shall qualify in the full amount of the bond. The district director on approving the bond will issue to the manufacturer a certificate on Form 270 which will specify the penal sum of the bond furnished. This certificate shall contain a transcript from the manufacturer's notice, Form 268, giving an accurate description of the factory premises. This certificate must be posted by the manufacturer in a conspicuous place within his manufactory.

(3) Every manufacturer of adulterated and process or renovated butter, filled cheese, or white phosphorous matches must also give notice and register with the district director on Form 213 before engaging in the business, and also furnish a satisfactory bond on Form 214. Every manufacturer of playing cards is required to register with the district director on Form 277. Persons regularly engaged in the business of furnishing silver bullion for industrial, professional, or artistic use are required to register with the district director on Form 1 (Silver) Persons required to register with the district director or furnish bond should consult the

applicable regulations and the appropriate forms.

(k) *Provisions applicable to special or occupational stamp taxes.* Every person liable to pay any occupational tax imposed under subtitle D of the Code is required to register with the district director of internal revenue his name or style, place of residence, trade or business, and the place where such trade or business is carried on. In the case of a partnership the names of the partners and their place of residence must be so registered. See section 7011 of the Code. The following forms are prescribed for registration: Form 678 (relating to occupational taxes with respect to opium, etc.) Form 678–A (relating to occupational taxes with respect to opium, etc., in the case of a person who has not previously registered in any of the classes or occupations specified in section 4721 of the Code) Form 678–C (relating to occupational taxes with respect to marihuana), Form 11 (relating to adulterated and process or renovated butter and filled cheese) Form 11–B (relating to occupational taxes with respect to coin-operated amusement and gaming devices, bowling alleys, and billiard and pool tables) Form 11–C (relating to occupational tax with respect to wagering).

SUBPART E—CONFERENCE AND PRACTICE REQUIREMENTS

§ 601.501 *Scope of requirements.* The conference and practice requirements prescribed in this subpart apply to all offices of the Internal Revenue Service, including the Office of the Chief Counsel. Such requirements are applicable with respect to any matter involving any internal revenue tax.

§ 601.502 *Qualifications for conferences*—(a) *General.* It is the policy of the Internal Revenue Service to encourage the discussion of disputed tax liability or any matter in connection with an internal revenue tax which affects the taxpayer's interest. Conferences, of course, may be accorded only to taxpayers or their duly authorized representatives. Conferences with taxpayers or their representatives will not ordinarily be held without previous arrangement. However, upon a proper showing a request for an immediate conference without previous arrangement will be given consideration, and Service officials responsible for the arrangement of conferences may, in their discretion, make an exception to the rule. Every protest, brief, or other statement in writing which the taxpayer or his representative desires to be considered at any conference should be submitted or filed at least five days prior to the date of the conference. If the taxpayer or his representative is unable to file such protest, brief, or other statement in writing at least five days prior to the date of the scheduled conference, the taxpayer or his representative should arrange with the appropriate Service representative for a postponement of the conference to a date mutually agreeable to the parties. The taxpayer or his representative remains free of course to submit additional or supporting facts or evidence within a reasonable time after the conference.

(b) *Requirement of enrollment.* (1) Except as provided in this paragraph, or as authorized by Treasury Department Circular No. 230 as amended (31 CFR, Parts 10, 12, 13, and 14) which circular contains rules governing the recognition of attorneys and agents representing clients before the Treasury Department, no person appearing as an attorney or agent on behalf of any taxpayer, or of a transferee or fiduciary will be recognized by representatives of the Internal Revenue Service, unless such attorney or agent is duly enrolled and in good standing to practice before the Treasury Department in accordance with Department Circular No. 230. The appearance of such attorney or agent, and his representation of taxpayers in every respect, must be in strict compliance with the requirements of Department Circular No. 230 and all pertinent statutes, and also with the requirements of this subpart. Evidence of enrollment must be submitted upon request when the attorney or agent presents himself for conference.

(2) Certain individuals are authorized by Department Circular No. 230 to appear without enrollment under the circumstances and conditions described therein. However, such individuals must present satisfactory identification, and the requirement of a power of attorney will not be waived in the case of any individual appearing on behalf of another person. See paragraph (c) of this section. The formal requirements concerning identification and authority of a person to act in a fiduciary capacity are the same as those related to the execution of powers of attorney by such fiduciary. See § 601.505. Individuals who without enrollment appear on behalf of any person with respect to the tax liability of such person may also without enrollment appear with respect to the liability of such person as a transferee of property of a taxpayer and with respect to the liability of a fiduciary under section 3467 of the Revised Statutes, 31 U. S. C. 192.

(3) Unenrolled employees of enrolled attorneys or agents will not be recognized by offices of the Service, except for the purpose of filing papers or securing information as to the status of tax cases. Recognition of such employees for the purpose of securing information as to the status of tax cases will be given only when the employee presents with reference to a particular case written authority from his employer to request such information, and a power of attorney authorizing his employer to act in such matter has previously been filed and not revoked.

(4) If a proper power of attorney is filed authorizing only one of the following acts by the attorney or agent, enrollment will not be required:

(i) Authority to sign, but not to prosecute, any claim of the taxpayer; and

(ii) Authority to inspect or receive copies of returns filed by the taxpayer where an Executive order or regulations permit such action by agent.

The Commissioner reserves the right to withhold making the above exceptions in any specific cases. If the power of attorney authorizes the attorney or agent to do both of the above acts or one of the above acts and some other act or acts, enrollment will be required, notwithstanding that the attorney or agent does not expect to exercise the additional power conferred upon him.

(5) If at the time an attorney or agent appears for conference, he is not familiar with the requirement for enrollment or for a power of attorney, or can show that he has not had a reasonable opportunity to obtain a power of attorney from the person on whose behalf he appears, but is able to produce such evidence as will reasonably convince the Service's representative that he has authority to represent the taxpayer, such attorney or agent may be heard with the understanding that a power of attorney in proper form and evidence of enrollment will be promptly submitted. Pending the filing of a power of attorney and of evidence of enrollment, information concerning the Service's attitude with respect to the matter will not be disclosed to the attorney or agent.

(c) *Requirement of power of attorney.* (1) No attorney or agent shall appear on behalf of any person before any office of the Internal Revenue Service or be recognized in any matter connected with the presentation of such person's interests, including the preparation and filing of necessary written documents and correspondence with the Service relative to such interests, unless such attorney or agent presents and files a power of attorney in proper form, or a certified copy thereof, from such person authorizing the attorney or agent to represent him in the matter in question. Only one power of attorney to represent the taxpayer shall be in effect in any one case, and there shall be included in such power of attorney the names and addresses of all attorneys or agents to whom the taxpayer has delegated authority to represent him in the case. A power of attorney is not required in the case of an attorney appointed by a court having jurisdiction over a debtor to represent a trustee in bankruptcy, debtor in possession, or receiver. For evidence of authority to be submitted in such cases, see § 601.505 (c)

(2) The Commissioner may, with respect to the performance of a specific act, substitute a requirement for appropriate evidence of authorization in lieu of the requirement in this section of a power of attorney. The requirement of a power of attorney to authorize prosecution of a claim for refund by an attorney or agent of the claimant shall not be waived.

(3) See paragraph (b) (5) of this section with respect to recognition of an attorney or agent in certain cases pending the filing of a power of attorney.

(4) A power of attorney filed after final determination of a tax liability will not be accepted, unless the power of attorney recites that the taxpayer is informed of such settlement and of the amount of the deficiency or overassessment determined.

§ 601.503 *Filing power of attorney and statement relative to fees.* A power of attorney shall be filed in duplicate in

the office of the district director of internal revenue in which the case is under consideration, with one additional conformed copy for each taxable year in excess of one. If at the time the power of attorney is furnished the case is pending in the office of an assistant regional commissioner, the power of attorney may be filed in such office. In the case of a power of attorney authorizing representation in connection with a request for a ruling or a similar matter of a specific nature which will be originally considered by the National Office, the power of attorney shall be filed in the Office of the Director of Practice, Internal Revenue Service, Washington 25, D. C. A fee statement respecting contingent or partially contingent fees required to be filed by attorneys and agents under Department Circular No. 230 shall be signed only by the attorney or agent and filed with the power of attorney to which it relates.

§ 601.504 *Provisions respecting powers of attorney*—(a) *Formal requirements.* The use of technical language in the preparation of a power of attorney is not necessary but the instrument should clearly express the taxpayer's intention as to the scope of the authority granted to the attorney or agent, and the tax matters and the taxable years or periods to which the power relates. If it is desired that a copy of any correspondence addressed to the taxpayer should be sent to the attorney or agent in connection with any matter in respect of which he is authorized to act under the terms of the power of attorney, the power of attorney should contain a request to that effect and designate the mailing address of such attorney or agent.

(1) *Extent of authority delegated.* The authority delegated to an attorney or agent in a power of attorney enumerating specific acts which the attorney or agent is authorized to perform will be considered to be limited to those acts. Express authority to perform the following acts must be granted in the power of attorney or such acts will be considered to be beyond the scope of the authority of the attorney or agent:

(i) To receive, but not to endorse and collect, checks in payment of any refund of internal revenue taxes, penalties, or interest. (See section 3477 of the Revised Statutes (31 U. S. C. 203) which prohibits assignments of claims or portions thereof, and § 601.510.)

(ii) To delegate authority or to substitute another agent or attorney.

(iii) To execute waivers or consents agreeing to a later assessment and collection of taxes than is provided by applicable statutes of limitations.

(iv) To execute a closing agreement in respect of a tax liability or a specific matter.

(2) *Signature of principal.* A power of attorney shall be signed as follows:

(i) In the case of an individual taxpayer, by such individual.

(ii) In the case of any taxable year for which a joint return was made by husband and wife, by both husband and wife except that either spouse may sign for the other if such signature is duly authorized in writing.

(iii) In the case of a partnership, either by all members or in the name of the partnership by one of the partners duly authorized to act.

(iv) In the case of a corporation, by an officer of the corporation having authority to bind the corporation. The instrument shall also be attested by the secretary of the corporation and the corporate seal affixed. If the officer who signs the power of attorney is also secretary, another officer of the corporation, preferably the president, vice president, or treasurer, must also sign the authorization so that two different individuals' signatures will appear thereon. If the corporation has no seal, a certified copy of a resolution duly passed by the board of directors of the corporation authorizing the execution of the power of attorney should be attached.

(v) In the case of an association, the same requirements shall be applied as in the case of a corporation.

(vi) In case the taxpayer is dissolved, insolvent, or deceased, and in the case of a trustee, guardian, or other fiduciary, see § 601.505 for instructions for execution of powers of attorney in special cases.

(3) *Acknowledgment.* The power of attorney must be acknowledged before a notary public, or, in lieu thereof, witnessed by two disinterested individuals. The notarial seal must be affixed unless such seal is not required under the laws of the State wherein the power of attorney is executed.

(4) *Certification of powers of attorney.* The certification of copies of powers of attorney or papers or documents filed in connection therewith must be made by a notary public or other proper official, who shall state that he has personally compared the copy with the original and finds it to be a true and correct copy.

(b) *Substitution of attorneys or agents.* Substitution of attorneys or agents or delegations of authority can be recognized only if the power of attorney expressly confers the power of substitution or delegation. An attorney or agent who is enrolled and in good standing before the Department may, in pursuance of such express authority, substitute another or others in his stead or delegate authority to another or others. The Service reserves the right to refuse recognition to a substituted attorney or agent in any case where such substitution would only delay the closing of the case. Furthermore, a substitute power of attorney granted by an attorney or agent who is himself acting under a substitute power of attorney will not be accepted unless specific authority is granted in the principal's power of attorney to pass on to his substitute the right of substitution.

(c) *Designation of new attorneys or agents.* In any case in which a power of attorney has been filed and thereafter the taxpayer desires to authorize an additional attorney or agent to represent him before the Service with respect to the same matter, a new power of attorney must be filed which shall include the names of all attorneys or agents authorized to act for the taxpayer. Such new power of attorney shall contain a clause specifically revoking any and all powers of attorney previously filed with respect to the same matter. If the taxpayer desires to revoke the authority granted to an attorney or agent in a power of attorney previously filed and to authorize a new attorney or agent to act with respect to the same matter, the revocation of the authority of the former attorney or agent shall in no case be effective so far as the Service is concerned prior to the giving of written notice to the Service that the authority of such attorney or agent has been revoked and that the former attorney or agent has been notified in writing by the taxpayer of such revocation.

(d) *Special authority required in Vinson Act cases.* A power of attorney authorizing an attorney or agent to represent a taxpayer in connection with income and excess profits tax matters will not be recognized as adequate to authorize an attorney or agent to act as representative of the taxpayer in connection with its excess profit liability under section 3 of the Vinson Act (48 Stat. 503) as amended. A separate power of attorney must be furnished specifically authorizing the attorney or agent to appear on behalf of the taxpayer in such cases.

§ 601.505 *Instructions for execution of power of attorney in special cases*—(a) *Dissolved partnership.* A power of attorney to act with respect to matters involving the affairs of a dissolved partnership must be signed by each of the former partners. In case some of the partners are dead, their legal representatives must sign in their stead. (See paragraph (d) of this section.) If, however, under the laws of the particular State, the surviving partners at the time of the execution of the power of attorney have exclusive right to the control and possession of the firm's assets for the purpose of winding up its affairs, their signatures alone will be sufficient. If only the surviving partners sign the power of attorney, a copy of the pertinent provisions of the State law under which they claim authority, exclusive of the legal representatives of the deceased partners, should be noted and citation given thereto.

(b) *Dissolved corporation.* If a liquidating trustee or trustee under dissolution has been appointed, or if a trustee derives authority under a statute of the State in which the corporation was organized, the power of attorney should be executed by such trustee. If there is more than one trustee, all must join unless it is established that less than all have authority to act in the premises. The power of attorney must be accompanied by a copy of the instrument under which the trustee derives his authority, properly authenticated, or if the authority is derived under a State statute, the statute should be cited and quoted, and an affidavit by a third party, setting forth the facts required by the statute as a condition precedent to the vesting of the authority in said trustee, must be furnished. It must also appear in the case of any trustee that his authority has not been terminated. If there is no trustee, then a power of

attorney signed by a sufficient number of individuals to make up a representation of a majority of the voting stock of the corporation at the date of dissolution will be accepted for purposes of conference and correspondence relating to the tax liability in the particular case. Such instrument must show the total number of outstanding shares of voting stock at the date of dissolution and the number held by each signatory to the power of attorney. The instrument must also contain positive averments as to the nonexistence of any trustee, and the date of dissolution must appear.

(c) *Insolvent taxpayer* A certificate from the court having jurisdiction over the insolvent should be furnished showing the appointment and qualification of the trustee or receiver and that the authority has not been terminated. In cases pending before a district court of the United States an authenticated copy of the order approving the bond of the trustee or receiver will meet this requirement. If an attorney has been appointed under authority of court for the trustee or receiver, a copy of the court order appointing such attorney (where he is to represent the trustee or receiver) should be furnished. If no attorney has been appointed, the trustee or receiver should execute the power of attorney and the above-described evidence showing the appointment of the trustee or receiver should be furnished therewith. If the trustee or receiver does not wish to appoint an attorney, he will be recognized upon establishing his authority in the manner above described.

(d) *Deceased taxpayer.* The executor or administrator should execute the power of attorney, which must be accompanied by a short-form certificate (or authenticated copies of letters testamentary or letters of administration) showing that his authority is in full force and effect at the time such power of attorney is submitted. In the event that the executor has been discharged and a trustee under the will is acting, the power of attorney must come from the trustee, and evidence of the discharge of the executor and of the appointment of the trustee must be submitted with the power of attorney. Where the executor is discharged and the estate is distributed to the residuary legatees, the power of attorney must come from the residuary legatee or legatees, and be accompanied by a statement from the court certifying to the discharge of the executor and naming the residuary legatees and indicating the proper share to which each is entitled. In the event that the decedent died intestate and the administrator has been discharged or none was ever appointed, the power of attorney must be executed by the distributees and accompanied by evidence of the discharge of the administrator, if one had been appointed, and affidavits and such other evidence as can be adduced tending to show the relationship to the deceased of the signatories to the power of attorney and the right of each of them to the respective shares claimed under the law of the domicile of the deceased.

(e) *Guardians and other fiduciaries appointed by a court of record.* The power of attorney should be executed by the fiduciary and must be accompanied by a court certificate or court order showing that such fiduciary has been appointed and that his appointment has not been terminated.

(f) *Trustee under agreement or declaration.* Powers of attorney must be executed by the trustee and be accompanied by documentary evidence of the authority of the trustee to act. Such evidence may be either a copy of the trust instrument, properly certified, or a certified copy of extracts from the trust instrument, showing:

(1) Date of instrument.

(2) That it is or is not of record in any court.

(3) The beneficiaries.

(4) The appointment of the trustee, the authority granted, and such other information as may be necessary to show that such authority extends to Federal tax matters.

(5) That the trust has not been terminated, and that the trustee appointed therein is still acting.

Self-serving affidavits by the trustee in this connection are not acceptable. In the event that the trustee appointed in the original trust instrument is no longer acting and has been replaced by another trustee, documentary evidence of the appointment of the new trustee must be submitted. In cases where there are more than one trustee appointed, all must join unless it is shown that less than all have authority to act.

(g) *Cross reference.* For additional requirement of execution and acknowledgment of power of attorney before a notary public, see § 601.504 (a) (3).

§ 601.506 *Refusal to recognize attorney or agent.* Where consideration of a matter has been held in abeyance pending the furnishing of evidence which the Service has requested an attorney or agent to submit, failure to comply with such request within three months from the date it is made may be deemed by the administrative officer before whom the matter is pending cause for refusal further to recognize the authority of such attorney or agent. The administrative officer shall, however, give written notice of such refusal to the taxpayer represented by such attorney or agent, and shall briefly state the reason such action has been taken.

§ 601.507 *Power of attorney not required in cases docketed in the Tax Court of the United States.* In a case docketed in the Tax Court of the United States the petitioner and the Commissioner stand in the position of parties litigant before a judicial body. The Tax Court has its own rules of practice and procedure and its own rules respecting admission to practice before it. Ordinarily, the Appellate Division of a region will not recognize counsel not of record in a proceeding before the Tax Court. Therefore, correspondence in connection with cases docketed in the Tax Court will be addressed to counsel of record before the Court. In all cases pending in the Appellate Division, other than cases docketed in the Tax Court, the customary power of attorney is required.

§ 601.508 *Recognition by correspondence.* If an attorney or agent of a taxpayer desires recognition through correspondence with the Service, enrollment and power of attorney requirements must be met even though no actual appearance is made. The attorney or agent should state in his first letter or other written communication with the Service whether he is enrolled to practice before the Department, and should enclose in duplicate the power of attorney authorizing him to act in the matter. In any matter in which a power of attorney has previously been filed copies of all correspondence relating to the same matter and addressed by the Service to the taxpayer shall be sent to the attorney or agent designated in such power of attorney, provided the power of attorney contains a request that copies of such correspondence be sent to such attorney or agent.

§ 601.509 *Evidence required to substantiate facts alleged in conferences.* All evidence except that of a supplementary or incidental character may be required to be submitted over the sworn signature of the taxpayer. In the case of any matter pending before the Service in respect of which the taxpayer submits a protest or other similar statement, such protest or statement should contain a sworn statement of facts on which the taxpayer relies, and should meet all the issues raised by the Service which the taxpayer desires to contest. Every claim, affidavit, written argument, brief, or statement of fact prepared or filed by an attorney or agent in any matter pending before the Service shall have endorsed thereon a statement signed by such attorney or agent stating whether or not he prepared such document and whether or not he knows of his own knowledge that the statements of fact contained therein are true and correct.

§ 601.510 *Delivery of checks in payment of refunds.* The Service is not bound to deliver any check in payment of refund of internal revenue taxes, penalties, or interest to a representative of any taxpayer acting under authority evidenced by a power of attorney. However, it will be the general policy of the Service to mail such checks in care of an enrolled attorney or agent who has filed a power of attorney from the principal, specifically authorizing him to receive but not to indorse such check, provided that such power of attorney shall have been filed in sufficient time for the section or division preparing the certificate of overassessment or other appropriate notice to show thereon the mailing address as "care of" the attorney or agent. When an attorney or agent has more than one address, request to mail the check to an address other than that shown in the power of attorney will not be granted unless the address shown in the power of attorney is no longer that of the attorney or agent. In the event that a power of attorney is filed specifically authorizing more than one attorney or agent to receive checks on the taxpayer's behalf, and such attorneys or agents have different addresses, the Service will mail the check direct to the taxpayer, unless a statement is furnished,

signed by all of the attorneys or agents named in the power of attorney, requesting that the check be mailed in care of one of their number. Furthermore, it will be the policy of the Service not to mail checks in payment of refunds to an attorney or agent who holds authority to receive such checks by reason of a substitute power of attorney obtained from the attorney or agent designated by the taxpayer.

§ 601.511 *Contest between attorneys or agents representing taxpayers.* Where there is a contest between members of a dissolved firm or between two or more attorneys or agents acting under the same power of attorney as to which one is entitled to represent a client in a matter pending before the Service or to receive a check, thereafter the taxpayer only shall be recognized, unless the members or survivors of the dissolved firm, or the contesting attorneys or agents, file an agreement signed by all designating which of them shall be entitled to represent the taxpayer in such matter or to receive any check. In no case shall the delivery of a check to the taxpayer be delayed more than 60 days by reason of failure to file such agreement.

SUBPART F—RULES, REGULATIONS, AND FORMS

§ 601.601 *Rules and regulations*—(a) *Formulation.* (1) Internal revenue rules take various forms. The most important rules are issued as regulations and Treasury decisions, prescribed by the Commissioner and approved by the Secretary. Other rules may be issued over the signature of the Commissioner or the signature of any other official to whom authority has been delegated. The channeling of rules varies with the circumstances. Regulations and Treasury decisions, except those relating to alcohol, tobacco, and certain firearms, are prepared either in the office of the Assistant Commissioner (Technical) or in the office of the Chief Counsel. All such regulations and Treasury decisions are reviewed in the office of the Assistant Commissioner (Technical) and in the office of the Chief Counsel. Alcohol, tobacco, and certain firearms regulations and Treasury decisions are prepared in the office of the Assistant Commissioner (Operations) and reviewed in the office of the Chief Counsel. After approval by the Commissioner, regulations and Treasury decisions are forwarded to the Secretary of the Treasury for further consideration and final approval.

(2) Where required by section 4 of the Administrative Procedure Act (60 Stat. 237) and in such other instances as may be desirable, the Commissioner publishes in the FEDERAL REGISTER general notice of proposed rules (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law) This notice includes (i) a statement of the time, place, and nature of public rule-making proceedings; (ii) reference to the authority under which the rule is proposed; and (iii) either the terms or substance of the proposed rule or a description of the subjects and issues involved. Also, pursuant to section 5 of the Federal Alcohol Administration Act (27 U. S. C. 205 (f)) public notice and opportunity for hearing is given prior to the adoption of regulations under that section.

(b) *Petition to change rules.* Interested persons are privileged to petition for the issuance, amendment, or repeal of a rule, and such petitions will be given careful consideration. Petitions should be addressed to the Commissioner of Internal Revenue, Washington 25, D. C.

(c) *Publication of rules and regulations.* All internal revenue regulations and Treasury decisions (whether interpretative or substantive) are published in the FEDERAL REGISTER and in the Code of Federal Regulations. The Treasury decisions are also published in the weekly Internal Revenue Bulletin and the semiannual Cumulative Bulletin. The Internal Revenue Bulletin is the authoritative instrument of the Commissioner for the announcement of official rulings, and for the publication of Treasury decisions, Executive orders, legislation and court decisions pertaining to internal revenue matters. It is the policy of the Service to publish in the bulletin all substantive and procedural rulings of importance or general interest, the publication of which is considered necessary to promote a uniform application of the laws administered by the Service. It is also the policy to publish all rulings which revoke, modify, amend or affect any published ruling. Rulings relating solely to matters of internal management are not published. The rulings are prepared in the various offices of the Service.

§ 601.602 *Forms and instructions*—(a) *Tax return forms and instructions.* Forms and instructions are developed by the Internal Revenue Service to explain the requirements of the internal revenue laws and regulations and are issued for the assistance of taxpayers in exercising their rights and discharging their duties under the internal revenue laws. All internal revenue taxes which are not collected by stamps are assessed and collected through the self-determination and self-application of the law and the regulations by taxpayers. The tax return forms are the instruments through which this is accomplished.

(b) *Other forms and instructions.* In addition to the forms and instructions for the return of internal revenue taxes, the Internal Revenue Service provides other necessary or appropriate forms for assisting the public in complying with the technical requirements of the internal revenue laws and regulations. The material contained in the forms and instructions, and the arrangement thereof, is carefully considered in the Internal Revenue Service and is designed to lead the taxpayer step-by-step through an orderly accumulation of data to an accurate report of the information required.

(c) *Procurement of forms and instructions.* Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from district directors of internal revenue.

SUBPART G—RECORDS

§ 601.701 *Classification.* Matters of official record in the Internal Revenue Service include:

(a) Documents submitted by members of the public pursuant to the internal revenue laws or regulations, such as tax returns, information returns, statements required by statute or regulation, claims for credit, refund, or abatement, offers in compromise, bonds, applications for registration, and waivers of statutes of limitation.

(b) Final opinions and orders under the internal revenue laws and regulations in tax matters, such as records of assessment, certificates of overassessment, and statutory deficiency letters, and documents evidencing determinations of such matters as claims for abatement, credit, or refund, offers in compromise, applications for excess profits tax relief, registration applications, closing agreements, and levies.

§ 601.702 *Publication and public inspection*—(a) *General.* Sections 6103, 7213, and 7237 (b) of the Code and the corresponding provisions of prior internal revenue laws contain broad prohibitive and penal provisions against the disclosure of certain information described therein obtained by the Internal Revenue Service from members of the public in the performance of its functions. See also 18 U. S. C. 1905. Publication and public inspection of the official records of the Service, including final opinions or orders in particular cases, are effected in the light of these provisions. The extent to which public disclosure is made of matters of official record to persons properly and directly concerned is set forth in this section.

(1) *Inspection of tax returns.* The inspection of returns is governed by the provisions of the internal revenue laws and rules promulgated by the President or by the Secretary of the Treasury pursuant to such provisions. See Treasury Decision 4873, approved by the President November 12, 1938, as amended; Treasury Decision 4878, approved by the Secretary January 4, 1939; Treasury Decision 4929, approved by the President August 28, 1939, as amended; Treasury Decision 5138, approved by the President April 20, 1942 (26 CFR (1939) Part 458, Subpart A) Treasury Decision 4945, approved by the Secretary September 20, 1939 (26 CFR (1939), Part 458, Subpart B) as amended.

(2) *Public lists of persons making income tax returns.* Lists of persons making income tax returns in each year are available to public inspection in the offices of district directors of internal revenue. See section 6103 (f) of the Code.

(3) *Public lists of persons paying occupational taxes.* Lists of persons paying occupational taxes under subtitle D or E of the Code are available for public inspection in the offices of district directors of internal revenue pursuant to the provisions and limitations of section 6107 of the Code.

(4) *Record of seizure and sale of real estate.* Record 21, "Record of seizure and sale of real estate", is open for public inspection in offices of district directors of internal revenue and copies are furnished on application. See

Treasury Decision 5428, approved January 11, 1945, 10 F. R. 622.

(5) *State liquor cases.* If the interests of the United States will not be jeopardized thereby, and if information will not be divulged contrary to section 7213 (b) of the Code, assistant regional commissioners (alcohol and tobacco tax) may upon receipt of subpoenas or requests of State authorities, and at the expense of the State, authorize investigators and other employees under their supervision to attend trials and administrative hearings in liquor cases in which the State is a party, produce records and testify as to facts coming to their knowledge in their official capacities.

(6) *Public lists of employers making returns under the Federal Unemployment Tax Act.* Lists of employers making annual returns on Form 940 under the Federal Unemployment Tax Act (chapter 23 of the Code) are available for public inspection in the offices of district directors of internal revenue. See sections 6103 (f) and 6106 of the Code.

(7) *Information returns of certain tax-exempt organizations and certain trusts.* Information returns filed pursuant to sections 6033 (b) and 6034 of the Code by certain tax-exempt organizations and by trusts claiming charitable or other deductions under section 642 (c) are available for public inspection in the offices of district directors of internal revenue in which they are filed. The information returns so available are pages 3 and 4 of Form 990–A (tax-exempt organizations) and Form 1041–A (trusts) See section 6104 of the Code.

(b) *Final opinions and orders.* In conformity with the policy of the provisions of law referred to in paragraph (a) of this section, final opinions and orders in the adjudication of cases arising under the internal revenue laws are, with limited exceptions, treated by the Service as confidential and are neither published nor made available for public inspection. The exceptions are:

(1) *Accepted offers in compromise.* In the case of offers in compromise in respect of income, profits, capital stock (repealed) estate or gift tax liability accepted on or after August 20, 1952, a copy of the summary sheet (abstract) of each such offer is available for public inspection in the office of the information officer of the National Office. Such summary sheet includes a brief description of the reasons for acceptance of the offer. If information in addition to that shown on the summary sheet is requested, such information, subject to the provisions set forth in Internal Revenue Cumulative Bulletin 1952–2, pages 299–300, will also be made available for inspection. In the case of offers in compromise of such tax liabilities accepted before August 20, 1952, a copy of the summary sheet will be made available for inspection upon request identifying the taxpayer. See Treasury Decision 5927, approved August 20, 1952, and Executive Order 10386, dated August 20, 1952.

(2) *Information regarding basic permits.* Information with respect to the handling of applications for basic permits under the Federal Alcohol Administration Act and under section 5304 of the Code is maintained for public inspection in the offices of assistant regional commissioners (alcohol and tobacco tax) until the expiration of one year following final action on such applications. See Treasury Decision 5930, approved by the Acting Secretary September 2, 1952 (27 CFR, Part 1).

(3) *Alcohol permits issued under section 5304 of the Code.* A current card index record of all persons to whom basic permits have been issued, or who have filed application therefor, is available in the offices of assistant regional commissioners (alcohol and tobacco tax) for inspection by any permittee with respect to other permittees to whom he is authorized to sell, or from whom he is authorized to purchase, alcohol or specially denatured alcohol. (26 CFR 182.962)

(4) *Excess profits tax relief; publication of allowances.* Pursuant to the provisions of section 6105 of the Code, there is published from time to time in the FEDERAL REGISTER the information specified in such section relative to excess profits tax relief allowed particular taxpayers.

(5) *Publication of decisions.* Rulings and decisions on matters arising under the internal revenue laws which because they announce a ruling or decision upon a novel question or upon a question in regard to which there exists no previously published ruling or decision, or for other reasons, are of such importance as to be of general interest, or which revoke, amend or affect in any manner a published ruling or decision are, after rephrasing to eliminate any confidential information relating to a particular case, including identity of persons, regularly published in the Internal Revenue Bulletin. See also § 601.601 (c)

(c) *Rules.* All rules relating to the functions of the Internal Revenue Service other than those dealing solely with internal management will, to the extent consistent with the limitations contained in the provisions of law referred to in paragraph (a) of this section, be made available to public inspection. As to rules generally and their publication, see § 601.601 et seq.

(d) *Requests.* (1) Requests for information in connection with matters of official record in which the procedure for inspection is not set out in rules referred to in the preceding paragraphs of this section should be submitted to the Commissioner of Internal Revenue, Washington 25, D. C. The request should clearly state the information desired and must set forth the interest of the applicant in the subject matter and purpose for which the information is desired. If the applicant is an agent or attorney acting for another he will attach to the application evidence of his authority to act for his principal. If such evidence is satisfactory, such agent or attorney will be given access to any record to which his principal would be given access. The determination as to whether the information requested is available for disclosure in any particular case will be made by the Commissioner of Internal Revenue or such other officer authorized under the provisions of law referred to in paragraph (a) of this section.

(2) Whenever it is determined that a matter of official record is available for disclosure in a particular case, a copy of said official record will be furnished the party requesting the same or the officer passing upon the request may in his discretion allow a personal inspection of the official record in question at the place where the document is normally kept. A reasonable fee may in the discretion of the determining officer be charged for furnishing copies of official records.

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

[F. R. Doc. 55–5233; Filed, June 29, 1955; 8:57 a. m.]

TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subchapter B—Federal Open Market Committee

PART 270—OPEN MARKET OPERATIONS OF FEDERAL RESERVE BANKS

Effective June 22, 1955, Part 270 is added to read as follows:

Sec.
270.1 Scope of part.
270.2 Definitions.
270.3 Governing principles.
270.4 Federal Open Market Committee.
270.5 Conduct of open market operations.
270.6 Purchases and sales of Government securities.
270.7 Other open market operations.

AUTHORITY: §§ 270.1 to 270.7 issued under sec. 8, 48 Stat. 163, as amended; 12 U. S. C. 263.

§ 270.1 *Scope of part.* (a) Pursuant to the authority conferred upon it by section 12A of the Federal Reserve Act, as amended, the Federal Open Market Committee prescribes the following regulations relating to the open market transactions of the Federal Reserve Banks.

(b) The Federal Open Market Committee expressly reserves the right to alter, amend, or repeal this part in whole or in part at any time.

§ 270.2 *Definitions*—(a) *Government securities.* The term "Government securities" shall include bonds, notes, certificates of indebtedness, Treasury bills, and other obligations of the United States, including obligations fully guaranteed as to principal and interest by the United States.

(b) *Obligations.* The term "obligations" shall include all bankers' acceptances, bills of exchange, cable transfers, bonds, notes, warrants, debentures, and other obligations, including Government securities, which Federal Reserve Banks are authorized by law to purchase in the open market.

(c) *System Open Market Account.* The term "System Open Market Account" applies to Government securities and other obligations heretofore or hereafter purchased in accordance with open market policies adopted by the Committee and held for the account of the Federal Reserve Banks.

(d) *Committee.* The term "Committee" shall mean the Federal Open Market Committee.

§ 270.3 *Governing principles.* By the terms of section 12A of the Federal Reserve Act, as amended, the time, character, and volume of all purchases and sales in the open market by Federal Reserve Banks shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.

§ 270.4 *Federal Open Market Committee*—(a) *Functions.* The Committee shall consider the needs of commerce, industry and agriculture, the general credit situation of the country, and other matters having a bearing thereon and consider, adopt, and transmit to the several Federal Reserve Banks, regulations and directions with respect to the open market operations of such Banks under section 14 of the Federal Reserve Act.

(b) *Participation in System Open Market Account.* The Committee from time to time shall determine the principles which shall govern the allocation among the several Federal Reserve Banks of Government securities and other obligations held in the System Open Market Account, with a view to meeting the changing needs of the Federal Reserve Banks.

§ 270.5 *Conduct of open market operations.* (a) Each Federal Reserve Bank shall engage in open market operations under section 14 of the Federal Reserve Act only in accordance with this part and the directions issued by the Committee from time to time, and no Federal Reserve Bank shall decline to engage in open market operations as directed by the Committee.

(b) Transactions for the System Open Market Account shall be executed by a Federal Reserve Bank selected by the Committee. Each Federal Reserve Bank shall make available to the Federal Reserve Bank selected by the Committee such funds as may be necessary to conduct and effectuate such transactions.

§ 270.6 *Purchases and sales of Government securities.* (a) No Federal Reserve Bank shall purchase or sell Government securities, for its own account or for the account of any other Federal Reserve Bank, except pursuant to authority granted by the Committee or in accordance with an open market policy adopted by the Committee and in effect at the time.

(b) The Committee reserves the right, in its discretion, to require the sale of any Government securities now held or hereafter purchased by an individual Federal Reserve Bank or to require that such securities be transferred into the System Open Market Account in accordance with such directions as the Committee may make.

§ 270.7 *Other open market operations.* Subject to directions of the Committee and the following conditions, each Federal Reserve Bank may engage in open market operations other than the purchase or sale of Government securities:

(a) Each Federal Reserve Bank, as may be required from time to time by the Committee, shall report all such transactions to the Secretary of the Committee.

(b) Only acceptances and bills of exchange which are of the kinds made eligible for purchase under the provisions of Part 202 of this chapter may be purchased: *Provided,* That no obligations payable in foreign currency shall be purchased or sold for the account of the Federal Reserve Bank except in accordance with directions of the Committee.

(c) Only bills, notes, revenue bonds, and warrants of States, counties, districts, political subdivisions, or municipalities which are of the kinds made eligible for purchase under the provisions of Part 205 of this chapter may be purchased.

(d) No Federal Reserve Bank shall engage in the purchase or sale of cable transfers for its own account except in accordance with the directions of the Committee.

This regulation is amended effective June 22, 1955, for the purpose of simplifying structural organization by discontinuing the Executive Committee of the Federal Open Market Committee. The amended regulation, omitting references to the discontinued Executive Committee, is published in full for convenient reference.

The notice, public participation, and deferred effective date described in section 4 of the Administrative Procedure Act are not followed in connection with this amendment for the reasons and good cause found that such procedures are unnecessary as this part relates only to agency organization and they would serve no useful purpose.

FEDERAL OPEN MARKET COMMITTEE,
WINFIELD W. RIEFLER,
Secretary.

[F. R. Doc. 55-5225; Filed, June 29, 1955; 8:49 a. m.]

PART 271—INFORMATION, SUBMITTALS OR REQUESTS

UNPUBLISHED INFORMATION

Effective June 22, 1955, paragraph (c) of § 271.2 is amended to read as follows:

(c) *Unpublished information.* Except as may be specifically authorized by the Committee, or as may be required in the performance of duties for, or pursuant to the direction of, the Committee, no person shall disclose, or permit the disclosure of, any unpublished information of the Committee to anyone, whether by giving out or furnishing such information or copy thereof, by allowing any person to inspect, examine or copy such information or copy thereof, or by any other means. Unpublished information of the Committee shall include all information concerning the proceedings, deliberations, discussions, and actions of the Committee and all information or advice coming to the Committee or to any member of the Committee or any officer, employee or agent of the Committee, the Board of Governors of the Federal Reserve System, or any Federal Reserve Bank, in the performance of duties for, or pursuant to the direction of, the Committee, whether contained in files, memoranda, documents, reports, books, accounts, records, or papers or otherwise acquired and whether located at the offices of the Board of Governors of the Federal Reserve System, the Federal Reserve Banks, or elsewhere: *Provided,* That it shall not include information which has been published in accordance with paragraphs (a) and (b) of this section or information which is available to the public through other sources.

The purpose of this amendment is to eliminate reference to the Executive Committee of the Federal Open Market Committee which was discontinued effective June 22, 1955.

The notice, public participation, and deferred effective date described in section 4 of the Administrative Procedure Act are not followed in connection with this amendment for the reasons and good cause found that such procedures are unnecessary as this part relates only to agency organization and they would serve no useful purpose.

(Sec. 8, 48 Stat. 168, as amended; 12 U. S. C. 263)

FEDERAL OPEN MARKET COMMITTEE,
WINFIELD W. RIEFLER,
Secretary.

[F. R. Doc. 55-5222; Filed, June 29, 1955; 8:49 a. m.]

PART 272—RULES ON PROCEDURE

COMMITTEE ACTION; SUBMITTALS, PETITIONS AND REQUESTS

Effective June 22, 1955, Part 272 is amended in the following respects:

1. Section 272.2 is amended to read as follows:

§ 272.2 *Committee action.* The function of the Committee is the direction and regulation of open market operations which are conducted by the Federal Reserve Banks. This involves the determination of the policies which are to be pursued with respect to the purchase and sale of securities by the Federal Reserve Banks with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country, together with consideration and action upon incidental matters relating to the manner in which such operations are to be conducted. The discharge of the Committee's responsibilities requires the continuous gathering of information and study of changing financial, economic, and credit conditions and other pertinent considerations by the members of the Committee and its personnel. These activities are closely interrelated with other activities of the Board of Governors of the Federal Reserve System and the Federal Reserve Banks and all relevant information and views developed by these organizations are available to the Committee. With this background, action is taken by the Committee upon its own initiative at periodic

meetings held at least four times each year and oftener if deemed necessary. Attendance at Committee meetings is restricted to members of the Committee and its official staff, the Manager of the System Open Market Account, the Presidents of Federal Reserve Banks who are not at the time members of the Committee, and such other advisers as the Committee may invite from time to time. The Committee acts through the adoption and transmittal of directives and regulations to the Federal Reserve Banks. Operations in the System Open Market Account are conducted pursuant to directives issued by the Committee.

2. Section 272.5 is amended to read as follows:

§ 272.5 *Submittals, petitions, and requests.* Submittals, petitions, and requests may be made to the Committee at any time in the manner stated in § 271.1 of this subchapter. They will be considered by members of the Committee's official staff and, where appropriate, will be brought to the attention of the members of the Committee for consideration and any necessary action.

The purpose of these amendments is to eliminate reference to the Executive Committee of the Federal Open Market Committee which was discontinued effective June 22, 1955.

The notice, public participation, and deferred effective date described in section 4 of the Administrative Procedure Act are not followed in connection with this amendment for the reasons and good cause found that such procedures are unnecessary as this part relates only to agency organization and they would serve no useful purpose.

(Sec. 8, 48 Stat. 168, as amended; 12 U. S. C. 263)

FEDERAL OPEN MARKET COMMITTEE,
WINFIELD W RIEFLER,
Secretary.

[F. R. Doc. 55-5224; Filed, June 29, 1955; 8:49 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.259]

PART 40—DIPLOMATIC VISAS UNDER THE IMMIGRATION AND NATIONALITY ACT

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANT ALIENS UNDER THE IMMIGRATION AND NATIONALITY ACT

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT

MISCELLANEOUS AMENDMENTS

Parts 40, 41, and 42, Chapter I, Title 22 of the Code of Federal Regulations, are hereby amended in the following respects:

1. Paragraph (e) of § 40.1 *Definitions,* is amended to read as follows:

(e) "Equivalent of a diplomatic passport," as referred to in section 221 (b) of the act, means (1) a national passport not described as a diplomatic passport but which is issued by competent authority of the foreign government to which the bearer owes allegiance, and which indicates the career diplomatic or consular status of the bearer, the issuing government being one which does not issue diplomatic passports to its career diplomatic or consular officers, or (2) such other passport as may be acceptable to the Secretary of State in individual cases.

2. Paragraph (b) of § 40.5 *Classes of aliens ineligible to receive diplomatic visas,* is amended to read as follows:

(b) Aliens not in possession of a diplomatic passport or the equivalent of a diplomatic passport, unless such requirement has been waived.

3. Paragraph (e) *Place of application* of § 41.9 *Application for nonimmigrant visas,* is amended to read as follows:

(e) *Place of application.* With the exception of certain aliens who are in the United States and who may be issued nonimmagrant visas under the provisions of § 41.11, every alien applying for a nonimmigrant visa shall make application at a United States consular office in the consular district in which he has his residence: *Provided,* That a consular officer shall at the direction of the Secretary of State, or may in his discretion, accept an application for a nonimmigrant visa from an alien having no residence in the consular district if such alien is physically present therein.

4. Paragraph (b) of § 41.15 *Validity of nonimmigrant visa,* is amended to read as follows:

(b) Except as is provided in paragraphs (c) and (d) of this section, every nonimmigrant visa shall be valid for a period of twelve months, or for a period not exceeding forty-eight months in the case of an alien who is a national of a foreign country whose government issues visas to United States nationals of a similar class valid for an equivalent period or whose government does not require visas of United States nationals of a similar class visiting such country.

5. Paragraph (a) of § 41.16 *Revalidation of nonimmigrant visa,* is amended to read as follows:

(a) A nonimmigrant visa issued to an alien as a nonimmigrant under the provisions of section 101 (a) (15) of the act may, upon the basis of reciprocity accorded nationals of the United States of a similar class, be revalidated in the same classification at the original visa-issuing office or other consular office: *Provided,* That (1) such visa has been used by the alien to gain admission into the United States, or if not used, the alien has in his possession Forms 257a, b, and d, which were issued to him; (2) such visa was originally issued for less than the maximum period of forty-eight months; (3) such visa is about to expire or expired less than twelve months prior to the application for revalidation; and (4) the consular officer is satisfied that the alien is a bona fide nonimmigrant and is otherwise eligible to receive such a nonimmigrant visa, including the possession of a valid passport, if required.

6. Paragraph (b) of $41.16 *Revalidation of nonimmigrant visa,* is amended to read as follows:

(b) A formal application for the revalidation of a nonimmigrant visa need not be required. The consular officer may, in his discretion, waive the personal appearance of the alien concerned if satisfied that the alien is physically present in the consular district. A nonimmigrant visa may be revalidated any number of times but not to exceed a total of forty-eight months from the date of its original issuance.

7. Section 42.22 *Aliens not to be registered on a waiting list,* is amended to read as follows:

§ 42.22 *Aliens not to be registered or to retain registration on a quota or subquota waiting list.* (a) The following classes of aliens shall not have their names entered or retained on a quota or subquota waiting list:

(1) Aliens who qualify as exchange visitors under the provisions of section 201 of the United States Information and Educational Exchange Act of 1948, as amended, (62 Stat. 6, 66 Stat. 276)

(2) Aliens who the consular officer has reason to believe willfully violated their nonimmigrant status while in the United States.

(3) Aliens who are within one of the classes of excludable aliens described in section 212 (a) (17) of the act, unless the Attorney General has consented to their reapplication for admission into the United States.

(b) Notwithstanding the provisions of paragraph (a) of this section, and the provisions of § 42.25, aliens whose cases fall under paragraph (a) of this section and who qualify under the preference specified in section 203 (a) (1) of the act, may have their names entered or retained on the appropriate quota or subquota waiting list, and shall be accorded a registration priority as of the date the approved petition was filed with the Attorney General.

(c) Notwithstanding the provisions of paragraph (a) of this section, and the provisions of § 42.25, aliens whose cases fall under paragraph (a) (2) or (3) of this section and who qualify under the preference specified in section 203 (a) (2) (3) or (4) of the act may have their names entered or retained on the appropriate quota or subquota waiting list, and shall be accorded a registration priority as of the date the approved petition was filed with the Attorney General, except that the registration priority accorded such aliens shall not antedate their departure from the United States.

8. Paragraph (g) of § 42.23 *Removal of names of registrants from quota waiting list,* is amended to read as follows:

(g) The registrant is not eligible to retain his name on the waiting list by reason of the provisions of § 42.22.

9. Paragraph (h) of § 42.23 *Removal of names of registrants from quota waiting list,* is revoked.

10. Section 42.24 *Reinstatement of name on waiting list,* is revoked.

11. Paragraph (e) *Place of application* of § 42.30 *Application for immigrant visa,* is amended to read as follows:

(e) *Place of application.* Every alien applying for an immigrant visa shall make application at a United States consular office in the consular district in which he has his residence: *Provided,* That a consular officer shall at the direction of the Secretary of State, or may in his discretion, accept an application for an immigrant visa from an alien having no residence in a consular district if such alien is physically present therein.

(Sec. 24, 43 Stat. 166, sec. 37, 54 Stat. 675; 8 U. S. C. 222, 458)

The regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulations contained therein involve foreign affairs functions of the United States.

Dated: June 23, 1955.

SCOTT MCLEOD,
Administrator Bureau of Security and Consular Affairs.

[F. R. Doc. 55-5260; Filed, June 29, 1955; 8:56 a. m.]

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

Subchapter K—Hospital and Medical Care of Indians

PART 84—HEALTH FACILITIES AND DUTIES OF HEALTH PERSONNEL

PART 85—ADMISSION OF PATIENTS INTO INDIAN HOSPITALS AND SANATORIA

REVOCATION OF PARTS

Parts 84 and 85 are revoked effective July 1, 1955.[1]

(R. S. 463, 465, 2058, 42 Stat. 208; 25 U. S. C. 2, 9, 13, 31)

CLARENCE A. DAVIS,
Acting Secretary of the Interior

JUNE 24, 1955.

[F. R. Doc. 55-5204; Filed, June 29, 1955; 8:45 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter XIV—General Services Administration

[Revision 1, Amdt. 5]

REG. 2—TUNGSTEN REGULATION: DOMESTIC TUNGSTEN PROGRAM

PARTICIPATION IN PROGRAM

Pursuant to the authority vested in me by Executive Order 10480, dated August 14, 1953 (18 F R. 4939) this regulation, as revised and amended, is further amended as follows:

In section 3 (a) delete the date "June 30, 1955" and in lieu thereof substitute the following: "June 30, 1956"

(Sec. 704, 64 Stat. 816, as amended, Pub. Laws 95, 206, 83d Cong., 50 U. S. C. App. 2154)

All other provisions of this regulation shall remain in full force and effect.

This amendment is effective immediately.

Dated: June 23, 1955.

EDMUND F MANSURE,
Administrator

[F. R. Doc. 55-5314; Filed, June 29, 1955; 8:58 a. m.]

[Revision 2, Amdt. 3]

REG. 3—MANGANESE REGULATION: PURCHASE PROGRAM FOR DOMESTIC MANGANESE ORE AT DEMING, N. MEX.

PARTICIPATION IN PROGRAM

Pursuant to the authority vested in me by Executive Order 10480, dated August 14, 1953 (18 F. R. 4939), this regulation, as revised and amended, is further amended as follows:

In section 3, delete the date "June 30, 1955" and in lieu thereof substitute the following: "June 30, 1956"

(Sec. 704, 64 Stat. 816, as amended, Pub. Laws 95, 206, 83d Cong., 50 U. S. C. App. 2154)

All other provisions of this regulation shall remain in full force and effect.

This amendment is effective immediately.

Dated: June 23, 1955.

EDMUND F MANSURE,
Administrator

[F. R. Doc. 55-5309; Filed, June 29, 1955; 8:57 a. m.]

[Revision 2, Amdt. 4]

REG. 4—MANGANESE REGULATION: PURCHASE PROGRAM FOR DOMESTIC MANGANESE ORE AT BUTTE AND PHILIPSBURG, MONT.

PARTICIPATION IN PROGRAM

Pursuant to the authority vested in me by Executive Order 10480, dated August 14, 1953 (18 F R. 4939) this regulation, as revised and amended, is further amended as follows:

In section 3, delete the date "June 30, 1955" and in lieu thereof substitute the following: "June 30, 1956".

(Sec. 704, 64 Stat. 816, as amended, Pub. Laws 95, 206; 83d Cong., 50 U. S. C. App. 2154)

All other provisions of this regulation shall remain in full force and effect.

This amendment is effective immediately.

Dated: June 23, 1955.

EDMUND F MANSURE,
Administrator

[F. R. Doc. 55-5310; Filed, June 29, 1955; 8:58 a. m.]

[Revision 1, Amdt. 5]

REG. 6—MANGANESE REGULATION: DOMESTIC MANGANESE PURCHASE PROGRAM

PARTICIPATION IN PROGRAM

Pursuant to the authority vested in me by Executive Order 10480, dated August 14, 1953 (18 F R. 4939), this regulation, as revised and amended, is further amended as follows:

In section 4, delete the date "June 30, 1955" and in lieu thereof substitute the following: "June 30, 1956"

(Sec. 704, 64 Stat. 816, as amended, Pub. Laws 95, 206, 83d Cong., 50 U. S. C. App. 2154)

All other provisions of this regulation shall remain in full force and effect.

This amendment is effective immediately.

Dated: June 23, 1955.

EDMUND F MANSURE,
Administrator

[F. R. Doc. 55-5308; Filed, June 29, 1955; 8:57 a. m.]

[Revision 3, Amdt. 3]

REG. 7—MICA REGULATION: PURCHASE PROGRAMS FOR DOMESTIC MICA

PARTICIPATION IN PROGRAM

Pursuant to the authority vested in me by Executive Order 10480, dated August 14, 1953 (18 F R. 4939), this regulation, as revised and amended, is further amended as follows:

In sections 4 (a) and 5 (a) delete the date "June 30, 1955" and in lieu thereof substitute the following: "June 30, 1956"

(Sec. 704, 64 Stat. 816, as amended, Pub. Laws 95, 206, 83d Cong., 50 U. S. C. App. 2154)

All other provisions of this regulation shall remain in full force and effect.

This amendment is effective immediately.

Dated: June 23, 1955.

EDMUND F MANSURE,
Administrator

[F. R. Doc. 55-5313; Filed, June 29, 1955; 8:58 a. m.]

[Amdt. 5]

REG. 8—BERYL REGULATION: PURCHASE PROGRAM FOR DOMESTICALLY PRODUCED BERYL ORE

PARTICIPATION IN PROGRAM

Pursuant to the authority vested in me by Executive Order 10480, dated August 14, 1953 (18 F R. 4939) this regulation, as amended, is further amended as follows:

In section 2, delete the date "June 30, 1955" and in lieu thereof substitute the following: "June 30, 1956"

(Sec. 704, 64 Stat. 816, as amended, Pub. Laws 95, 206, 83d Cong., 50 U. S. C. App. 2154)

All other provisions of this regulation shall remain in full force and effect.

[1] See Title 42, Part 36, *infra.*

This amendment is effective immediately.

Dated: June 23, 1955.

EDMUND F MANSURE,
Administrator

[F. R. Doc. 55-5307; Filed, June 29, 1955; 8:57 a. m.]

[Amdt. 5]

REG. 9—ASBESTOS REGULATION: PURCHASE PROGRAM FOR NONFERROUS CHRYSOTILE ASBESTOS PRODUCED IN ARIZONA

PARTICIPATION IN PROGRAM

Pursuant to the authority vested in me by Executive Order 10480, dated August 14, 1953 (18 F R. 4939) this regulation, as amended, is further amended as follows:

In section 6, delete the date "June 30, 1955" and in lieu thereof substitute the following: "June 30, 1956"

(Sec. 704, 64 Stat. 816, as amended, Pub. Laws 95, 206, 83d Cong.; 50 U. S. C. App. 2154)

All other provisions of this regulation shall remain in full force and effect.

This amendment is effective immediately.

Dated: June 23, 1955.

EDMUND F. MANSURE,
Administrator

[F. R. Doc. 55-5306; Filed, June 29, 1955; 8:57 a. m.]

[Amdt. 2]

REG. 11—MERCURY REGULATION: PURCHASE PROGRAM FOR MERCURY MINED IN THE CONTINENTAL UNITED STATES (INCLUDING TERRITORY OF ALASKA)

PARTICIPATION IN PROGRAM

Pursuant to the authority vested in me by Executive Order 10480, dated August 14, 1953 (18 F. R. 4939) this regulation, as amended, is further amended as follows:

In section 6, delete the date "June 30, 1955" and in lieu thereof substitute the following: "June 30, 1956"

(Sec. 704, 64 Stat. 816, as amended, Pub. Law 95, 83d Cong.; 50 U. S. C. App. 2154)

All other provisions of this regulation shall remain in full force and effect.

This amendment is effective immediately.

Dated: June 23, 1955.

EDMUND F. MANSURE,
Administrator

[F. R. Doc. 55-5312; Filed, June 29, 1955; 8:58 a. m.]

[Amdt. 1]

REG. 12—MERCURY REGULATION: PURCHASE PROGRAM FOR MERCURY MINED IN MEXICO

PARTICIPATION IN PROGRAM

Pursuant to the authority vested in me by Executive Order 10480, dated August 14, 1953 (18 F. R. 4939), this regulation, is amended as follows:

In section 6, delete the date "June 30, 1955" and in lieu thereof substitute the following: "June 30, 1956"

(Sec. 704, 64 Stat. 816, as amended, Pub. Law 95, 83d Cong.; 50 U. S. C. App. 2154)

All other provisions of this regulation shall remain in full force and effect.

This amendment is effective immediately.

Dated: June 23, 1955.

EDMUND F. MANSURE,
Administrator.

[F. R. Doc. 55-5311; Filed, June 29, 1955; 8:58 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

Subchapter C—Medical Care and Examinations

PART 36—INDIAN HEALTH

Notice of proposed rule making and public rule making procedures have been omitted as unnecessary in the issuance of this part which relates to the provision of health and medical services for Indians.

Effective July 1, 1955, pursuant to Public Law 568, 83d Congress (68 Stat. 674) all functions, responsibilities, authorities and duties of the Department of the Interior, the Bureau of Indian Affairs, Secretary of the Interior and the Commissioner of Indian Affairs relating to the maintenance and operation of hospital and health facilities for Indians and conservation of the health of Indians are transferred to and are to be administered by the Surgeon General of the Public Health Service under the supervision and direction of the Secretary of Health, Education, and Welfare. Regulations relating to the exercise of the authorities, responsibilities and duties so transferred which were heretofore issued and codified under Subchapter K—Hospital and Medical Care of Indians, Title 25, Code of Federal Regulations, will, accordingly, no longer be applicable after June 30, 1955.[1] Regulations pertaining to matters of Indian health effective after such date will hereafter be issued and amended, and will be codified, under this subchapter and under other appropriate subchapters of this title.

Indian health services, to be administered by the Surgeon General of the Public Health Service after June 30, 1955, are to be viewed in the context of the continuing Bureau of Indian Affairs program for Indians, and in the light of the general objective of improving the standard of living of the Indian population and encouraging local responsibility.

1. Subchapter C of this title is amended by adding the following new part:

Subpart A—Scope and Definitions

Sec.
36.1 Purpose and effect.
36.2 Meaning of terms.

Subpart B—Availability of Services to Individuals in Programs (Including Facilities Constructed or Supported With Tribal Funds) Operated for Indian Beneficiaries By the Public Health Service

Sec.
36.11 Services available.
36.12 Persons to whom services will be provided.
36.13 Charges to Indian beneficiaries for services provided in Public Health Service facilities or by Public Health Service personnel.

Subpart C—Contract Services

36.21 Availability of contract services.

AUTHORITY: §§ 36.1 to 36.21 issued under sec. 3, 68 Stat. 674; 42 U. S. C. 2003. Interpret or apply 42 Stat. 208; sec. 1, 68 Stat. 674; 25 U. S. C. 13, 42 U. S. C. 2001.

SUBPART A—SCOPE AND DEFINITIONS

§ 36.1 *Purpose and effect.* (a) The regulations in this part establish the general principles to be followed in the discharge of this Department's responsibilities for continuation and improvement of the Indian health services. Officers and employees of the Department will be guided by these policies in exercising discretionary authority with respect to the matters covered.

(b) The Surgeon General of the Public Health Service is authorized to adopt, and from time to time revise or add, administrative instructions relating to methods or procedures appropriate to implementing these principles, or for their supplementation as to matters not covered, including instructions providing for the continuation or appropriate modification of practices and procedures previously observed in the provision of Indian health services in particular jurisdictions.

§ 36.2 *Meaning of terms.* When used in this part, the term:

(a) "Indian health program" includes the Alaska Native Health Services.

(b) "Indian" includes Indians in the continental United States, and Indians, Aleuts and Eskimos in Alaska.

(c) "Jurisdiction" shall have the same geographical meaning as in Bureau of Indian Affairs usage.

(d) "Bureau of Indian Affairs" means the Bureau of Indian Affairs, Department of the Interior.

SUBPART B—AVAILABILITY OF SERVICES TO INDIVIDUALS IN PROGRAMS (INCLUDING FACILITIES CONSTRUCTED OR SUPPORTED WITH TRIBAL FUNDS) OPERATED FOR INDIAN BENEFICIARIES BY THE PUBLIC HEALTH SERVICE

§ 36.11 *Services available.* Within the limits of available funds, facilities, and personnel, the Public Health Service will make available, within the area served by the local facility, hospital and medical and dental care, including outpatient services, services of mobile clinics and public health nurses, and preventive care including immunizations and health examinations of special groups, such as school children.

§ 36.12 *Persons to whom services will be provided*—(a) *In general.* (1) Services will be made available, as medically indicated, to persons of Indian descent belonging to the Indian community

[1] See Title 25, Parts 84 and 85, *supra.*

served by the local facilities and program, and non-Indian wives of such persons.

(2) Generally, an individual may be regarded as within the scope of the Indian health and medical service program if he is regarded as an Indian by the community in which he lives as evidenced by such factors as tribal membership, enrollment, residence on tax-exempt land, ownership of restricted property, active participation in tribal affairs, or other relevant factors in keeping with general Bureau of Indian Affairs practices in the jurisdiction.

(b) *Doubtful cases.* (1) In case of doubt as to whether an individual applying for care is within the scope of the program, the Medical Officer in Charge shall obtain from the appropriate Bureau of Indian Affairs officials in the jurisdiction information pertinent to his determination of the individual's continuing relationship to the Indian population group served by the local program.

(2) If the applicant's condition is such that immediate care and treatment are necessary services shall be provided pending identification as an Indian beneficiary.

(c) *Priorities when funds, facilities, or personnel are insufficient to provide the indicated volume of services.* Priorities for care and treatment, as among individuals who are within the scope of the program, will be determined on the basis of relative medical need and access to other arrangements for obtaining the necessary care.

§ 36.13 *Charges to Indian beneficiaries for services provided in Public Health Service facilities or by Public Health Service personnel*—(a) *In general.* In order to make the most effective use of funds and facilities available for needed health and medical services, individual Indians who are clearly able to pay the costs of hospital care (and of other major items of service specified in instructions of the Surgeon General) will be encouraged to do so, and services may be conditioned upon payment in appropriate cases. No charge may be made for immunizations, health examination of school children or similar preventive services.

(b) *Amount of charges.* Payment may be requested in accordance with a schedule of charges established for the jurisdiction by the Area Medical Officer, but such charges may in no case exceed the cost of providing the service, as determined by the Surgeon General or in accordance with instructions issued by him.

(c) *Circumstances under which payment may be requested, Authority of the Medical Officer in Charge.* Whenever it is established to the satisfaction of the Medical Officer in Charge, from information available from the local Bureau of Indian Affairs officers or from other sources, that an Indian applying for care for himself or his family is able to meet the scheduled charge for the needed care without impairing his prospects for economic independence, he may be asked to pay the scheduled charge. Charges may be reduced in individual cases, or payment may be waived and needed services may nevertheless be provided if, in the judgment of the Medical Officer in Charge, the health objectives in the area served will be advanced thereby.

SUBPART C—CONTRACT SERVICES

§ 36.21 *Availability of contract services.* Availability of contract services to individual Indian beneficiaries will be governed by the terms of the contract.

2. The foregoing amendment shall become effective on July 1, 1955.

Dated: June 24, 1955.

[SEAL] ROSWELL B. PERKINS,
Acting Secretary.

[F. R. Doc. 55-5203; Filed, June 29, 1955; 8:45 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circ. 1911]

PART 257—SALE OR LEASE OF SMALL TRACTS, NOT EXCEEDING FIVE ACRES, FOR RESIDENCE, RECREATION, BUSINESS, OR COMMUNITY SITES

APPLICATION; GENERAL PROCEDURE

Effective July 5, 1955, Part 257 is amended by adding a new paragraph (d) to § 257.6, to read as follows:

§ 257.6 *Application, general procedure.* * * *

(d) No application on Form 4-776 for small tracts will be accepted under the regulations in this part unless the applicant certifies that he has personally inspected the small tract described in his application or lands within one mile of that tract.

(52 Stat. 609, as amended; 43 U. S. C. 682a. Interprets or applies R. S. 2478; 43 U. S. C. 1201)

CLARENCE A. DAVIS,
Acting Secretary of the Interior

JUNE 28, 1955.

[F. R. Doc. 55-5217; Filed, June 29, 1955; 10:04 a. m.]

Appendix C—Public Land Orders

[Public Land Order 1170]

[Misc. 62332]

ARIZONA

PARTIAL REVOCATION OF PUBLIC LAND ORDER NO. 848 OF JULY 1, 1952, WHICH WITHDREW PUBLIC LANDS FOR USE OF DEPARTMENT OF THE ARMY IN CONNECTION WITH YUMA TEST STATION

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Public Land Order No. 848 of July 1, 1952, withdrawing public lands in Arizona for use of the Department of the Army in connection with the Yuma Test Station, is hereby revoked so far as it effects the following-described lands:

GILA AND SALT RIVER MERIDIAN

T. 6 S., R. 14 W.,
Secs. 1 and 12.

The areas described aggregate 1,283.62 acres.

The lands are generally flat with a slope to the south. The soil is a clay loam and supports a sparse growth of creosote, paloverde, cacti, and seasonal weeds and grasses when precipitation, which averages 3½ inches annually, is sufficient. The grazing capacity is low. No rock in place is exposed on either section and the surface alluvium is not indicative of any valuable mineralization. The climate is too arid for dry farming and there is no known source of irrigation water.

No application for the restored lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

This order shall not otherwise become effective to change the status of the restored lands until 10:00 a. m. on the 35th day after the date of this order. At that time the said lands shall become subject to application, petition and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference-right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284) as amended.

Veterans' preference-right applications under the said act of September 27, 1944, may be received on or before 10:00 a. m. on the 35th day after the date of this order, and those covering the same lands shall be treated as though simultaneously filed at that time. Applications filed under the act after that time and during the succeeding 91 days shall be considered in the order of filing. Applications by the general public under the public-land laws, including the mineral-leasing laws, received on or before 10:00 a. m. on the 126th day after the date of this order shall be treated as though simultaneously filed at that time, where the applications are for the same lands; otherwise, priority of filing shall govern.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Phoenix, Arizona.

ORME LEWIS,
Assistant Secretary of the Interior

JUNE 23, 1955.

[F. R. Doc. 55-5206; Filed, June 29, 1955; 8:45 a. m.]

[Public Land Order 1171]

[Colorado 010439]

COLORADO

REVOKING EXECUTIVE ORDER OF DECEMBER 23, 1873, WHICH RESERVED LANDS ON PIKES PEAK FOR USE OF WAR DEPARTMENT; WITHDRAWING PORTION OF RELEASED LANDS FOR USE OF FOREST SERVICE AS PIKES PEAK SUMMIT RECREATION AREA

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. The Executive order of December 23, 1873, reserving upon request of the Secretary of War certain lands on Pikes Peak, Colorado, as shown on a plat accompanying the order, to accommodate the United States Signal Station on Pikes Peak and to afford a supply of timber, firewood, water, and grass, is hereby revoked.

The area reserved, aggregating approximately 12.8 square miles, was transferred to the jurisdiction of the Secretary of the Interior by the Executive order of January 2, 1889, for disposition under the act of July 5, 1884 (23 Stat. 103; 43 U. S. C. 1071–1074)

Part of the lands was patented to the City of Colorado Springs, Colorado, on May 22, 1896, under the authority contained in the act of April 24, 1896 (29 Stat. 97) The remaining lands are a part of the Pike National Forest and, exclusive of those rewithdrawn by paragraph 2 of this order, shall become subject to the public-land laws relating to national forest lands at 10:00 a. m. on the 35th day after the date of this order.

2. Subject to valid existing rights, the following-described public lands, which are a portion of the lands described in paragraph 1 of this order, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining but not the mineral-leasing laws, and reserved for use of the Forest Service, Department of Agriculture, as the Pikes Peak Summit Recreation Area:

A tract of land located in the unsurveyed S½SW¼ sec. 7, T. 14 S., R. 68 W., 6th P. M. described as follows:

Beginning at the southwest corner of the 5-acre easement granted to Manitou and Pikes Peak Railway for station ground purposes, map for which was accepted by the Department of the Interior March 10, 1890, thence Westerly, 500 feet on a projection of the alignment of the south boundary of said easement;. Northwesterly, 510.5 feet along a line parallel to the west boundary line of said easement; Easterly, 500 feet parallel to the south boundary line of said easement; Southeasterly, 510.5 feet along the west boundary line of said easement to point of beginning.

The tract described contains 5.859 acres.

3. The withdrawal made by this order shall take precedence over but not otherwise affect the existing reservation of the lands for national forest purposes.

FRED G. AANDAHL,
Acting Secretary of the Interior.

JUNE 24, 1955.

[F. R. Doc. 55-5203; Filed, June 29, 1955; 8:46 a. m.]

[Public Land Order 1172]

UTAH AND WYOMING

PARTIAL REVOCATION OF EXECUTIVE ORDER OF APRIL 17, 1926, CREATING PUBLIC WATER RESERVE NO. 107

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141) and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

The Executive order of April 17, 1926, creating Public Water Reserve No. 107, as construed by Department of the Interior Interpretations No. 100 of April 8, 1932 and No. 177 of February 15, 1933, is hereby revoked so far as it affects the following-described lands in Utah and Wyoming:

[Misc. 069102]

WYOMING—INTERPRETATION No. 100

SIXTH PRINCIPAL MERIDIAN

T. 40 N., R. 80 W.,
Sec. 2, lots 2, 3, SE¼NW¼, E½SW¼;
Sec. 15, SW¼NE¼, SE¼NW¼, E½SW¼;
Sec. 22, SW¼NE¼, E½NW¼.

The areas described aggregate 197.50 acres.

[Salt Lake 064931]

UTAH—INTERPRETATION No. 177

SALT LAKE MERIDIAN

T. 40 S., R. 16 W.,
Sec. 35, NE¼NE¼.

The area described contains 40 acres.

The lands in T. 40 N., R. 80 W., 6th P. M., are located in Natrona County, Wyoming. The only water on these lands is in the northerly portion of the lands in Section 15, consisting of a few seeps in Dug Out Creek, but they are so located as not to be suitable for public watering purposes and have not been used as such for many years in the past. The lands in T. 40 S., R. 16 W., S. L. M., are located in a rocky canyon in Washington County, Utah. The tract is in Utah Grazing District No. 4.

No application for the restored lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

This order shall not otherwise become effective to change the status of the restored lands until 10:00 a. m. on the 35th day after the date of this order. At that time the said lands shall become subject to application, petition and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference-right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284), as amended.

Veterans' preference-right applications under the said act of September 27, 1944, may be received on or before 10:00 a. m. on the 35th day after the date of this order, and those covering the same lands shall be treated as though simultaneously filed at that time. Applications filed under the act after that time and during the succeeding 91 days shall be considered in the order of filing. Applications by the general public under the public-land laws, including the mineral-leasing laws, received on or before 10:00 a. m. on the 126th day after the date of this order shall be treated as though simultaneously filed at that time, where the applications are for the same lands; otherwise, priority of filing shall govern.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Cheyenne, Wyoming, or Salt Lake City, Utah, depending upon the State where the lands are located.

FRED G. AANDAHL,
Acting Secretary of the Interior.

JUNE 24, 1955.

[F. R. Doc. 55-5207; Filed, June 29, 1955; 8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 130]

FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

ORDER FIXING OPERATION AND MAINTENANCE CHARGES

Pursuant to section 4 (a) of the Administrative Procedure Act of June 11, 1946 (Public Law 404—79th Congress, 60 Stat. 238) and authority contained in the Acts of Congress approved August 1, 1914, May 18, 1916; and March 7, 1928 (38 Stat. 583, 25 U. S. C. 385; 39 Stat. 142; and 45 Stat. 210, 25 U. S. C. 387) and by virtue of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs (Order No. 2508; 14 F. R. 258) and by virtue of authority delegated by the Commissioner of Indian Affairs to the Area Director (Bureau Order No. 551, Amendment No. 1, 16 F R. 5454–7) notice is hereby given of the intention to modify §§ 130.24, 130.26, and 130.28 of Title 25, Code of Federal Regulations, dealing with irrigable lands of the Flathead Indian Irrigation Project, Montana, that are subject to the jurisdiction of the several irrigation districts, as follows:

Charges applicable to all irrigable lands of the Flathead Indian Irrigation Project that are included in the Irriga-

tion District Organization and are subject to the jurisdiction of the three irrigation districts.

§ 130.24 *Charges.* Pursuant to a contract executed by the Flathead Irrigation District, Flathead Indian Irrigation Project, Montana, on May 12, 1928, as supplemented and amended by later contracts dated February 27, 1929, March 28, 1934, August 26, 1936 and April 5, 1950, there is hereby fixed for the season of 1956, an assessment of $221,500 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Flathead Irrigation District. This assessment involves an area of approximately 68,840.2 acres; does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 130.26 *Charges.* Pursuant to a contract executed by the Mission Irrigation District, Flathead Indian Irrigation project, Montana, on March 7, 1931, approved by the Secretary of the Interior on April 21, 1931, as supplemented and amended by later contracts dated June 2, 1934, June 6, 1936 and May 16, 1951, there is hereby fixed, for the season of 1956, an assessment of $45,000 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Mission Irrigation District. This assessment involves an area of approximately 13,704.3 acres; does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 130.28 *Charges.* Pursuant to a contract executed by the Jocko Valley Irrigation District, Flathead Indian Irrigation Project, Montana, on November 13, 1934, approved by the Secretary of the Interior on February 26, 1935, as supplemented and amended by later contracts dated August 26, 1936, and April 18, 1950, there is hereby fixed, for the season of 1956, an assessment of $15,000 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Jocko Valley Irrigation District. This assessment involves an area of approximately 5,665.1 acres; does not include any lands held in trust for Indians and covers all proper general charges and project overhead.

Interested persons are hereby given opportunity to participate in preparing the proposed amendments by submitting their views, data or arguments in writing to Area Director, Bureau of Indian Affairs, 804 North 29th Street, Billings, Montana, within 30 days from the date of publication of this notice of intention in the daily issue of the FEDERAL REGISTER.

J. M. COOPER,
Area Director.

[F. R. Doc. 55-5205; Filed, June 29, 1955; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 51]

UNITED STATES STANDARDS FOR FLORIDA TANGERINES [1]

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the United States Department of Agriculture is considering the revision of United States Standards for Florida Tangerines (7 CFR Part 51, 18 F. R. 7140) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., 7 U. S. C. 1621 et seq.)

All persons who desire to submit written data, views or arguments for consideration in connection with the proposed standards should file the same with the Chief, Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, South Building, Washington 25, D. C., not later than 30 days after publication hereof in the FEDERAL REGISTER.

The proposed standards are as follows:

GRADES

UNCLASSIFIED

TOLERANCES

APPLICATION OF TOLERANCES

STANDARD PACK

DEFINITIONS

AUTHORITY: §§ 51.1810 to 51.1836 issued under sec. 205, 60 Stat. 1090, 7 U. S. C. 1624.

GRADES

§ 51.1810 *U. S. Fancy.* "U. S. Fancy" consists of tangerines which are mature, firm, and well formed, and which are free from soft bruises, bird pecks, unhealed skin-breaks, and decay and free from damage caused by ammoniation, creasing, dryness or mushy condition, green spots or oil spots, pitting, scale, sprouting, sprayburn, sunburn, unsightly discoloration, buckskin, melanose, scars, scab, dirt or other foreign materials, disease, insects, or mechanical or other means.

(a) Each fruit in this grade shall be highly colored.

(b) In this grade not more than one-tenth of the fruit surface, in the aggregate, may have a light shade of brown discoloration caused by rust mite, or an equivalent of this amount in appearance when the fruit is discolored by any cause. (See § 51.1819.)

§ 51.1811 *U. S. No. 1.* "U. S. No. 1" consists of tangerines which are mature, firm, and well formed, and which are free from soft bruises, bird pecks, unhealed skin-breaks, and decay, and free from damage caused by ammoniation, creasing, dryness or mushy condition, green spots or oil spots, pitting, scale, sprouting, sprayburn, sunburn, unsightly discoloration, buckskin, melanose, scars, scab, dirt or other foreign materials, disease, insects, or mechanical or other means.

(a) Each fruit in this grade shall be fairly well colored.

(b) In this grade not more than one-third of the fruit surface, in the aggregate, may have a light shade of brown discoloration caused by rust mite, or an equivalent of this amount in appearance when the fruit is discolored by any cause. (See § 51.1819.)

§ 51.1812 *U. S. No. 1 Bronze.* The requirements for this grade are the same as for U. S. No. 1 except for discoloration. In this grade at least 75 percent, by count, of the fruits shall show some discoloration, and more than 20 percent, by count, of the fruits shall have more than one-third of their surface affected with bronzed russeting: *Provided,* That no discoloration that exceeds the amount allowed in the U. S. No. 1 grade shall be permitted unless such discoloration is caused by thrip, wind scars, or rust mite. (See § 51.1819.)

§ 51.1813 *U. S. No. 1 Russet.* The requirements for this grade are the same as for U. S. No. 1 except for discoloration. In this grade at least 75 percent, by count, of the fruits shall show some discoloration, and more than 20 percent, by count, of the fruits shall have more than one-third of their surface affected with discoloration. (See § 51.1819.)

§ 51.1814 *U. S. No. 2.* "U. S. No. 2" consists of tangerines which are mature, fairly firm, and fairly well formed, and which are free from soft bruises, bird pecks, unhealed skin-breaks, and decay, and free from serious damage caused by ammoniation, creasing, dryness or mushy condition, green spots or oil spots, pitting, scale, sprouting, sprayburn, sunburn, unsightly discoloration, buckskin, melanose, scars, scab, dirt or other foreign materials, disease, insects, or mechanical or other means.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

(a) Each fruit in this grade shall be reasonably well colored.

(b) In this grade not more than two-thirds of the fruit surface, in the aggregate, may be affected with light brown discoloration, or may have the equivalent of this amount in appearance when the fruit has lighter or darker shades of discoloration. (See § 51.1819.)

§ 51.1815 *U S. No. 2 Russet.* The requirements for this grade are the same as for U. S. No. 2 except that more than 20 percent, by count, of the fruits shall have in excess of two-thirds of their surface, in the aggregate, affected with light brown discoloration. (See § 51.1819.)

§ 51.1816 *U. S. No. 3.* "U. S. No. 3" consists of tangerines which are mature, not flabby and not seriously lumpy, and which are free from unhealed bird pecks, unhealed skin-breaks, and decay, and free from very serious damage caused by bruises, ammoniation, creasing, dryness or mushy condition, pitting, scale, sprouting, sprayburn, sunburn, unsightly discoloration, melanose, scars, scab, dirt or other foreign materials, disease, insects, or mechanical or other means. (See § 51.1820.)

UNCLASSIFIED

§ 51.1817 *Unclassified.* "Unclassified" consists of tangerines which have not been classified in accordance with any of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

TOLERANCES

§ 51.1818 *Tolerances.* In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the tolerances set forth in §§ 51.1819 and 51.1820 are provided as specified.

§ 51.1819 *U. S. Fancy, U. S. No. 1, U. S. No. 1 Bronze, U. S No. 1 Russet, U. S. No. 2 and U. S. No 2 Russet Grades.* Not more than a total of 10 percent, by count, of the fruits in any lot may fail to meet the requirements of the grade other than for discoloration, but not more than one-half of this amount, or 5 percent, shall be allowed for very serious damage other than that caused by dryness or mushy condition, and not more than one-twentieth of the tolerance, or one-half of 1 percent, shall be allowed for decay at shipping point: *Provided,* That an additional tolerance of 2½ percent, or a total of not more than 3 percent, shall be allowed for decay en route or at destination. In addition, not more than a total of 10 percent, by count, of the fruits in any lot may not meet the requirements relating to discoloration but not more than 2 percent shall be allowed for serious damage by unsightly discoloration.

§ 51.1820 *U. S. No. 3 Grade.* Not more than a total of 15 percent, by count, of the fruits in any lot may fail to meet the requirements of this grade, but not more than one-third of this amount, or 5 percent, shall be allowed for defects other than that caused by dryness or mushy condition, and not more than one-fifteenth of the tolerance, or 1 percent, shall be allowed for decay at shipping point: *Provided,* That an additional tolerance of 2 percent, or a total of not more than 3 percent, shall be allowed for decay en route or at destination.

APPLICATION OF TOLERANCES

§ 51.1821 *Application of tolerances.* (a) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade.

(1) For packages which contain more than 10 pounds and a tolerance of 10 percent or more is provided, individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 10 pounds and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least one decayed or very seriously damaged fruit may be permitted in any package.

(2) For packages which contain 10 pounds or less, individual packages in any lot are not restricted as to the percentage of defects, except that not more than one fruit which is decayed or very seriously damaged shall be allowed in any package.

STANDARD PACK

§ 51.1822 *Standard pack.* (a) The tangerines in each container shall be packed in accordance with recognized methods. Each container shall be well filled and properly marked to indicate the size of the fruit. When the figures used to indicate size of fruit vary from the actual number of tangerines in the container, as in the case of fractional parts of boxes, the figures indicating size shall be followed by the letter "s" or the word "size", as, for example, "210's", or "210 size" Containers which are not so marked shall not be regarded as meeting requirements of "standard pack"

(1) Fruit in each container shall be of a size not less than the minimum diameters specified in Table I for the various packs. Packs other than those listed shall have a minimum diameter not less than that specified for the nearest count.

TABLE I

Pack:	*Diameter in inches (minimum)*
100	2 5/16
120	2 1/16
150	2 1/16
176	2 1/16
210	2 1/16
246	2 1/16
294	2

(2) In order to allow for variations incident to proper sizing, not more than 10 percent, by count, of the fruits in any lot may be below the minimum size for the count as specified in Table I.

DEFINITIONS

§ 51.1823 *Mature.* "Mature" means the same as that term is then currently prescribed for tangerines in sections 601.21 and 601.22, Chapter 26492, Florida Statutes, known as the Florida Citrus Code of 1949, or as it may be amended hereafter.

§ 51.1824 *Firm.* "Firm" means that the flesh is not soft and the fruit is not badly puffy and that the skin has not become materially separated from the flesh of the tangerine.

§ 51.1825 *Well formed.* "Well formed" means that the fruit has the characteristic tangerine shape and is not deformed.

§ 51.1826 *Damage.* "Damage" means any defect which more than slightly affects the appearance, or the edible or shipping quality of the fruit. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Ammoniation, when it is not speck-type similar to melanose, provided that no ammoniation shall be permitted that detracts from the appearance of the individual fruit to a greater extent than the amount of discoloration allowed for the grade;

(b) Creasing, when it materially affects the appearance or shipping quality of the fruit;

(c) Dryness or mushy condition, when mushy or distinctly dry to a depth of more than one-eighth inch in all segments at the stem end, or the equivalent of this amount, by volume, of mushy condition or dryness when occurring in any portion of the fruit;

(d) Green spots or oil spots, when the appearance is affected to a greater extent than 10 green spots caused by scale, each of which is equivalent to the area of a circle one-eighth inch in diameter;

(e) Pitting, when materially affecting the appearance or shipping quality of the individual fruit;

(f) Scale, when occurring as a blotch and the aggregate area exceeds the area of a circle three-eighths inch in diameter, or any scale that detracts from the appearance of the individual fruit to a greater extent than the area permitted for a blotch. "Blotch" refers to actual scale and not the discolored area caused by scale;

(g) Sprayburn, when causing the skin to become hard or when it materially affects the appearance of the fruit;

(h) Sunburn, when causing the skin to become hard or when it materially affects the appearance of the fruit;

(i) Unsightly discoloration, when the color or the pattern, or a combination of color and pattern, causes the fruit to have an unattractive appearance;

(j) Buckskin, when it detracts from the appearance of the fruit to a greater extent than the amount of discoloration allowed for the grade;

(k) Melanose, when not small smooth speck-type, or any speck-type that detracts from the appearance of the fruit to a greater extent than the amount of discoloration allowed in the grade. Melanose that exceeds the amount allowed in the U. S. No. 1 grade is not permitted in the U. S. No. 1 Bronze grade;

(l) Scars, when not smooth, or when causing any noticeable depression, or when detracting from the appearance

of the fruit to a greater extent than the amount of discoloration allowed for the grade; and,

(m) Scab, when not smooth, or when it affects shape, or when it detracts from the appearance of the fruit to a greater extent than the amount of discoloration allowed for the grade. Scab injury that exceeds the amount allowed in the U. S. No. 1 grade is not permitted in the U. S. No. 1 Bronze grade.

§ 51.1827 *Highly colored.* "Highly colored" means that the ground color of each fruit is a deep tangerine color with practically no trace of yellow color.

§ 51.1828 *Discoloration.* "Discoloration" includes discoloration caused by rust mite, melanose, scars, scab, or any other means. Shades of discoloration which blend with the ground color of the fruit may be allowed on a larger area than that specified in the grade for light brown discoloration, and shades of discoloration which are more in contrast with the ground color shall be restricted to a lesser area: *Provided,* That no discoloration may affect the appearance to a greater extent than the amount of light brown discoloration specified for the grade. Tangerines which show discoloration caused by melanose, scab, or any cause other than by thrip, wind scars, or by rust mite shall not be permitted in the U. S. No. 1 Bronze grade when such discoloration exceeds the amount allowed in the U. S. No. 1 grade. (See § 51.1830.)

§ 51.1829 *Fairly well colored.* "Fairly well colored" means that the surface of the fruit may have green color which does not exceed the aggregate area of a circle one inch in diameter and that the remainder of the surface, which is not discolored, shows at least a good yellow color: *Provided,* That some portion of the surface shows a reddish tangerine blush.

§ 51.1830 *Bronzed russeting.* "Bronzed russeting" means russeting caused by thrip, wind scars, or by rust mite, or similar russeting which is not readily distinguishable from that caused by rust mite. Discoloration caused by melanose, scab, etc., are not considered as "bronzed russeting" within the meaning of these standards but are regarded as defects when they exceed the amounts permitted in the U. S. No. 1 grade and are not permitted in the U. S. No. 1 Bronze grade.

§ 51.1831 *Fairly firm.* "Fairly firm" means that the flesh may be slightly soft but is not bruised or badly puffy, and that the skin has not become seriously separated from the flesh of the tangerine.

§ 51.1832 *Fairly well formed.* "Fairly well formed" means that the fruit may not have the shape characteristic of the variety but that it is not badly deformed.

§ 51.1833 *Serious damage.* "Serious damage" means any defect which seriously affects the appearance, or the edible or shipping quality of the fruit. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(a) Ammoniation, when scars are cracked, or when dark and the aggregate area exceeds the area of a circle one-half inch in diameter, or when light colored and the aggregate area exceeds the area of a circle 1 inch in diameter.

(b) Creasing, when it causes the skin to be seriously weakened;

(c) Dryness or mushy condition, when mushy or distinctly dry to a depth of more than one-fourth inch in all segments at the stem end, or the equivalent of this amount, by volume, of mushy condition or dryness when occurring in any portion of the fruit;

(d) Green spots or oil spots, when the appearance is affected to a greater extent than 25 green spots, caused by scale, each of which is equivalent to the area of a circle one-eighth inch in diameter.

(e) Pitting, when seriously affecting the appearance or shipping quality of the fruit;

(f) Scale, when occurring as a blotch and the aggregate area exceeds the area of a circle one-half inch in diameter, or any scale that detracts from the appearance of the fruit to a greater extent than the area permitted for a blotch. "Blotch" refers to actual scale and not the discoloration caused by scale;

(g) Sprayburn, when it has caused the skin to become hard, or when it seriously affects the appearance of the fruit;

(h) Sunburn, when it has caused the skin to become hard, or when it seriously affects the appearance of the fruit;

(i) Unsightly discoloration, when the color or the pattern, or a combination of both, causes the fruit to have a distinctly unattractive appearance;

(j) Buckskin, when it detracts from the appearance of the fruit to a greater extent than the amount of discoloration allowed for the grade;

(k) Melanose, when badly caked and the aggregate area exceeds the area of a circle one-half inch in diameter, or when lightly caked and the aggregate area exceeds the area of a circle 1 inch in diameter, or when unsightly, or when it detracts from the appearance of the fruit to a greater extent than the amount of discoloration allowed for the grade;

(l) Scars, when not fairly smooth, or when causing any materially depressed areas, or when detracting from the appearance to a greater extent than the amount of discoloration allowed for the grade. Scars which are not fairly smooth, or which are materially depressed, are not permitted in either U. S. No. 2 or U. S. No. 2 Russet grades; and,

(m) Scab, when not fairly smooth or when it materially affects the shape of the fruit, or when it detracts from the appearance to a greater extent than the maximum amount of discoloration allowed for the grade.

§ 51.1834 *Reasonably well colored.* "Reasonably well colored" means that a good yellow or reddish tangerine color shall predominate over the green color on at least one-half of the fruit surface in the aggregate, and that each fruit shall show practically no lemon color.

§ 51.1835 *Very serious damage.* "Very serious damage" means any defect which seriously affects the appearance, or the edible or shipping quality of the fruit. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as very serious damage:

(a) Ammoniation, when scars are badly cracked, or when dark and the aggregate area exceeds the area of a circle 1 inch in diameter, or when light colored and it detracts from the appearance of the fruit to a greater extent than the area permitted for dark ammoniation;

(b) Creasing, when causing the skin to be seriously weakened;

(c) Dryness or mushy condition, when mushy or distinctly dry to a depth of more than one-fourth inch in all segments at the stem end, or the equivalent of this amount, by volume, of mushy condition or dryness when occurring in any portion of the fruit;

(d) Pitting, when it very seriously affects the appearance or the shipping quality of the fruit;

(e) Scale, when it very seriously affects the appearance of the fruit;

(f) Sprayburn, when it very seriously affects the appearance of the fruit;

(g) Sunburn, when it very seriously affects the appearance of the fruit;

(h) Unsightly discoloration, when the fruit has a very objectionable appearance caused by any means. The color or the pattern of the discoloration, or a combination of both, or a combination of defects may cause the fruit to have a very unsightly appearance;

(i) Melanose, when caked to the extent that the appearance of the fruit is very seriously affected;

(j) Scars, when so deep, rough, or unsightly that the appearance of the fruit is very seriously injured; and,

(k) Scab, when it causes the fruit to be very seriously injured.

§ 51.1836 *Diameter* "Diameter" means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.

Dated: June 27, 1955.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 55-5258; Filed, June 29, 1955; 8:55 a. m.]

[7 CFR Part 52]

UNITED STATES STANDARDS FOR GRADES OF DATES[1]

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the United States Department of Agriculture is considering the revision of the United States Standards for Grades of Dates (7 CFR 52.1001 to 52.1009) under the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., 7 U. S. C. 1621 et seq.) These standards,

[1] Compliance with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

if made effective, will be the third issue by the Department of grade standards for this product.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed revision should file the same with the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., not later than 30 days after publication hereof in the FEDERAL REGISTER.

The proposed revision is as follows:

PRODUCT DESCRIPTION, STYLES, AND GRADES

Sec.
52.1001 Product description.
52.1002 Styles of dates.
52.1003 Grades of dates.

FACTORS OF QUALITY

52.1004 Ascertaining the grade.
52.1005 Ascertaining the rating for the factors which are scored.
52.1006 Color.
52.1007 Uniformity of size.
52.1008 Absence of defects.
52.1009 Character.

LOT CERTIFICATION TOLERANCES

52.1010 Tolerances for certification of officially drawn samples.

SCORE SHEET

52.1011 Score sheet for dates.

AUTHORITY: §§ 52.1001 to 52.1011 issued under sec. 205, 60 Stat. 1090; 7 U. S. C. 1624.

PRODUCT DESCRIPTION, STYLES, AND GRADES

§ 52.1001 *Product description.* Dates are the properly cured fresh fruit of the date tree (Phoenix dactylifera) which may or may not be softened by hydration. For the purposes of the standards in this subpart, dates, when referred to as "dry dates for processing" means that the dates have not previously been softened by hydration or similar preparation and dates, when referred to as "processed dates" means that the dates have been previously softened by hydration or similar preparation.

§ 52.1002 *Styles of dates.* (a) "Whole" or "whole dates" means whole unpitted dates from which the pits have not been removed and which may be slit longitudinally.

(b) "Pitted" or "pitted dates" means whole dates from which the pits have been removed.

(c) "Pieces" or "date pieces" means dates that have been ground or chopped or that have been cut or sliced into small pieces and that can be handled as individual units.

(d) "Macerated" or "macerated dates" means dates that have been ground, chopped, mashed, or broken or that have been cut or sliced into small pieces and that cannot be handled as individual units.

§ 52.1003 *Grades of dates.* (a) "U. S. Grade A" or "U. S. Fancy" is the quality of whole or pitted processed dates that are of one variety, that possess a good color, that are practically uniform in size, that are practically free from defects, that possess a good character, and that score not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U. S. Grade B" or "U. S. Choice" is the quality of whole or pitted processed dates that are of one variety, that possess a reasonably good color, that are reasonably uniform in size, that are reasonably free from defects, that possess a reasonably good character, and that score not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) "U. S. Grade B (Dry)" or "U. S. Choice (Dry)" is the quality of whole dry dates for processing that are of one variety, that possess a reasonably good color, that are reasonably uniform in size, that are reasonably free from defects, that possess a reasonably good character, and that score not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(d) "U. S. Grade C" or "U. S. Standard" is the quality of whole or pitted processed dates that are of one variety and of date pieces or macerated dates that possess a fairly good color, that are fairly uniform in size except for date pieces or macerated dates, that are fairly free from defects, that possess a fairly good character, and that score not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(e) "U. S. Grade C (Dry)" or "U. S. Standard (Dry)" is the quality of whole dry dates for processing that are of one variety, that possess a fairly good color, that are fairly uniform in size, that are fairly free from defects, that possess a fairly good character, and that score not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(f) "Substandard" is the quality of dates that fail to meet the requirements of U. S. Grade C or U. S. Standard or U. S. Grade C (Dry) or U. S. Standard (Dry), whichever is applicable.

FACTORS OF QUALITY

§ 52.1004 *Ascertaining the grade.* The grade of dates is ascertained by considering all of the grade requirements of the standards as follows:

(a) *Factor not rated by score points.* (1) Varietal requirement.

(b) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

	Points
(1) Color	30
(2) Uniformity of size	10
(3) Absence of defects	30
(4) Character	30
Total score	100

§ 52.1005 *Ascertaining the rating for the factors which are scored.* The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points)

§ 52.1006 *Color*—(a) *(A) classification.* Whole or pitted processed dates that possess a good color may be given a score of 27 to 30 points. "Good color" means that the color of the processed dates is practically uniform; and, with respect to dates that are predominantly light amber in color, there may be not more than 5 percent by count of dates that are dark amber in color; and, with respect to dates that are predominantly dark amber in color, there may be not more than 5 percent by count of dates that are light amber in color.

(b) *(B) classification.* If the whole or pitted processed dates or whole dry dates for processing possess a reasonably good color, a score of 24 to 26 points may be given. Dates that fall into this classification shall not be graded above U. S. Grade B or U. S. Choice or U. S. Grade B (Dry) or U. S. Choice (Dry) whichever is applicable, regardless of the total score for the product (this is a limiting rule) "Reasonably good color" means that the color of the processed dates or dry dates for processing is reasonably uniform for the type; and, with respect to dates that are predominantly light amber in color, there may be not more than 10 percent by count of dates that are dark amber in color; and, with respect to dates that are predominantly dark amber in color, there may be not more than 10 percent by count of dates that are light amber in color.

(c) *(C) classification.* If the whole or pitted processed dates, whole dry dates for processing, date pieces, or macerated dates possess a fairly good color, a score of 21 to 23 points may be given. Dates that fall into this classification shall not be graded above U. S. Grade C or U. S. Standard or U. S. Grade C (Dry) or U. S. Standard (Dry) whichever is applicable, regardless of the total score for the product (this is a limiting rule). "Fairly good color" has the following meanings with respect to the following styles:

(1) *Whole; pitted.* The color of the processed dates or dry dates for processing is fairly uniform for the type; and, with respect to dates that are predominantly light amber in color, there may be not more than 20 percent by count of dates that are dark amber in color; and, with respect to dates that are predominantly dark amber in color, there may be not more than 20 percent by count of dates that are light amber in color.

(2) *Pieces; macerated.* The color may be variable throughout the units or mass, may be slightly dull but not off-color, and is typical of properly prepared dates of these styles.

(d) *(SStd) classification.* Dates that fail to meet the requirements of paragraph (c) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.1007 *Uniformity of size*—(a) *General.* The factor of uniformity of size applies only to whole and pitted styles. The factor of uniformity of size in the styles of date pieces and macerated dates is not based on any detailed

requirements and is not scored; the other three factors (color, absence of defects, and character as applicable) are scored and the total is multiplied by 100 and divided by 90, dropping any fractions to determine the total score.

(b) (*A*) *classification.* Whole or pitted processed dates that are practically uniform in size may be given a score of 9 or 10 points. "Practically uniform in size" means that not more than a total of 10 percent, by weight, of the whole or pitted dates may be conspicuously larger or smaller than the approximate average size of the dates in the container.

(c) (*B*) *classification.* If the whole or pitted processed dates or whole dry dates for processing are reasonably uniform in size, a score of 8 points may be given. Dates that fall into this classification shall not be graded above U. S. Grade B or U. S. Choice or U. S. Grade B (Dry) or U. S. Choice (Dry) whichever is applicable, regardless of the total score for the product (this is a limiting rule) "Reasonably uniform in size" means that not more than a total of 15 percent, by weight, of the whole or pitted dates may be conspicuously larger or smaller than the approximate average size of the dates in the container.

(d) (*C*) *classification.* If the whole or pitted processed dates or whole dry dates for processing are fairly uniform in size, a score of 7 points may be given. Dates that fall into this classification shall not be graded above U. S. Grade C or U. S. Standard or U. S. Grade C (Dry) or U. S. Standard (Dry) whichever is applicable, regardless of the total score for the product (this is a limiting rule) "Fairly uniform in size" means that not more than a total of 20 percent, by weight, of the whole or pitted dates may be conspicuously larger or smaller than the approximate average size of the dates in the container.

(e) (*SStd*) *classification.* Whole or pitted processed dates or whole dry dates for processing that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 6 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule)

§ 52.1008 *Absence of defects*—(a) *Definitions of defects.* Unless otherwise stated specifically, the following definitions of defects or defective units apply only to whole or pitted processed dates or whole dry dates for processing, as applicable for the type.

(1) "Damaged by discoloration" is the presence of a dark area in the flesh of the date, which dark area is visible through the skin and is more than one-fourth (¼) inch in width and extends more than the equivalent of half the length of the date, such darkening being of natural origin and not caused by mold or other organism.

(2) "Damaged by broken skin" is any rupture of the skin in a manner to expose the flesh of the date, the shortest dimension of such exposed area being not less than three-sixteenths (3/16) inch.

(3) "Damaged by checking" is the presence of fine lines, resulting from water injury, affecting the surface of the skin over an area not less than one-fourth of the total surface of the date.

(4) "Seriously damaged by checking" is the presence of heavy lines, resulting from water injury, seriously affecting the surface of the skin over an area not less than one-fourth of the total surface of the date.

(5) "Damaged by deformity" is any abnormal shape sufficient to produce an appearance discernibly at variance with the normal shape that is typical of the variety.

(6) "Damaged by puffiness" is the condition of a date of which the skin is soft and pliable and from which the skin is separated from the flesh in a balloon-like fashion, over an area not less than one-half of the total surface of the date. Soft skins which have returned and adhere to the flesh of the date are not considered "damaged by puffiness."

(7) "Seriously damaged by puffiness" is the condition of a date of which the skin is dry, hard, and brittle and from which the skin is separated from the flesh over an area not less than one-half of the total surface of the date.

(8) "Damaged by scars" are any blemishes that affect the exterior of the date and which are not less than three-sixteenths (3/16) inch in the shortest dimension.

(9) "Damaged by sunburn" is an area, usually light in color, scarred by the heat of the sun, such area being not less than three-sixteenths (3/16) inch in the shortest dimension.

(10) "Damaged by insect injury" is any blemish, resulting from the activity of insects or mites, distributed over an area of not less than one-fourth of the total surface of the date or any similar blemish that materially affects the appearance or edibility of the unit, regardless of the area affected.

(11) "Damaged by improper hydrating" means that the date has been injured by excessive heat or that the hydrating process is incomplete.

(12) "Damaged by mashing" means any physical injury to the flesh and skin of the date leaving the date partially mangled but otherwise whole.

(13) "Damaged by mechanical injury" means excessive trimming or similar injury that damages the appearance or that damages or affects the eating quality of the whole date or the whole unpitted date.

(14) "Damaged by lack of pollination" means, with respect to whole unpitted dates, that pollination of the date was not accomplished, such condition being manifested by the absence of a pit in the whole unpitted dates or by thin, immature appearance of the date.

(15) "Damaged by blacknose" is severe checking in which the flesh becomes dark, crusty, and dry and which severe checking affects an area greater than one-eighth of the total surface of the date.

(16) "Damaged by side spot" means a very dark area, which generally is circular in appearance, extending into the flesh of the date, and, when decayed tissue or mold is not present, affecting in the aggregate an area not less than the area of a circle three-sixteenths (3/16) inch in diameter.

(17) "Damaged by black scald" means the collapse, death, and blackening of the flesh along the side of the date, usually accompanied by a bitter taste in the affected area.

(18) "Damage by improper ripening" means pronounced evidence of "green shrivel" of the date or that the date possesses a puffy flesh or a decidedly rubbery texture resulting from failure of the tissue of the date to reach a desirable state of maturity due to climatic or cultural injury, or both.

(19) "Damaged by other defects" means any injury or defect or group of defects not defined in this section (such as, but not limited to, heavy sugaring, and excessive scars not described in the definition "damaged by scars,") which materially affect the appearance, edibility, or keeping quality of the dates.

(20) "Affected by souring" is evidenced by the breakdown of the sugars into alcohol and acetic acid by yeasts and bacteria.

(21) "Affected by mold" is the presence of visible mold.

(22) "Affected by dirt" is the presence of any quantity of such substance.

(23) "Affected by insect infestation" is the presence of dead insects, insect parts, or excreta. (No live insects are permitted)

(24) "Affected by foreign material" is the presence of any quantity of such substances.

(25) "Affected by decay" is a state of decomposition.

(b) (*A*) *classification.* Whole or pitted processed dates that are practically free from defects may be given a score of 27 to 30 points. "Practically free from defects" means that in pitted dates there may be present not more than one whole pit or 2 pit fragments for each 25 ounces of pitted dates; and that the processed dates do not exceed the total allowances and limitations shown in Chart I of this subpart.

(c) (*B*) *classification.* If the whole or pitted processed dates or whole dry dates for processing are reasonably free from defects, a score of 24 to 26 points may be given. Dates that fall into this classification shall not be graded above U. S. Grade B or U. S. Choice or U. S. Grade B (Dry) or U. S. Choice (Dry), whichever is applicable, regardless of the total score for the product (this is a limiting rule) "Reasonably free from defects" means that in pitted dates there may be present not more than one whole pit or 2 pit fragments for each 25 ounces of pitted dates; and that the processed dates or dry dates for processing do not exceed the total allowances and limitations shown in Chart II of this subpart.

(d) (*C*) *classification.* If the whole or pitted processed dates, whole dry dates for processing, date pieces, or macerated dates are fairly free from defects, a score of 21 to 23 points may be given. Dates that fall into this classification shall not be graded above U. S. Grade C or U. S. Standard or U. S. Grade C (Dry) or U. S. Standard (Dry), whichever is applicable, regardless of the total score for the product (this is a limiting rule) "Fairly free from defects" has

the following meanings with respect to the following styles:

(1) *Whole.* The defects or defective units in whole processed dates or whole dry dates for processing do not exceed the total allowances and limitations shown in Chart III of this subpart.

(2) *Pitted.* Not more than one whole pit or 2 pit fragments for each 25 ounces of pitted dates may be present; and the defects or defective units in pitted dates do not exceed the total allowances and limitations shown in Chart III of this subpart.

(3) *Pieces; macerated.* Not more than one whole pit or 2 pit fragments for each 25 ounces of pitted dates may be present; and the units or mass consists of clean and sound date material, fairly free from defects that seriously affect the appearance, edibility, or keeping quality of the product.

(e) *(SStd) classification.* Dates that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule)

CHART NO. I—ALLOWANCES AND LIMITATIONS FOR DEFECTS IN WHOLE AND PITTED PROCESSED DATES; U. S. GRADE A OR U. S. FANCY

TOTAL ALLOWANCE

Not more than a total of 10 percent[1] for the following defects:

Damaged by:
- Discoloration.
- Broken skin.
- Checking.
- Deformity.
- Puffiness.
- Scars.
- Sunburn.
- Insect injury.
- Improper hydrating.
- Mashing.
- Mechanical injury.
- Lack of pollination.
- Blacknose.
- Side spot.
- Black scald.
- Improper ripening.
- Other defects.

Seriously damaged by checking.
Seriously damaged by puffiness.
Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

LIMITATIONS

Not more than 3/5 of the total allowance, or 6 percent,[1] may be the following:

Damaged by:
- Side spot.
- Black scald.
- Improper ripening.
- Other defects.

Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

Not more than 2/5 of the total allowance, or 4 percent,[1] may be the following:

Damaged by:
- Improper ripening.
- Other defects.

Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

Not more than 1/10 of the total allowance, or 1 percent,[1] may be the defect shown below:

Affected by decay.

CHART NO. II—ALLOWANCES AND LIMITATIONS FOR DEFECTS IN WHOLE AND PITTED PROCESSED DATES OR IN WHOLE DRY DATES FOR PROCESSING; U. S. GRADE B OR U. S. CHOICE AND U. S. GRADE B (DRY) OR U. S. CHOICE (DRY)

ADDITIONAL ALLOWANCE

Not more than 15 percent[1] may be the following defect:

Seriously damaged by checking.

Not more than 20 percent[1] may be the following defect:

Damaged by broken skin.

Not more than a total of 15 percent[1] for the following defects:

Damaged by:
- Deformity.
- Puffiness.
- Scars.
- Sunburn.
- Insect injury.
- Improper hydrating.
- Mashing.
- Mechanical injury.
- Lack of pollination.
- Blacknose.
- Side spot.
- Black scald.
- Improper ripening.
- Other defects.

Seriously damaged by checking.
Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

LIMITATIONS

Not more than 2/3 of the additional allowance, or 10 percent,[1] may be the following:

Damaged by:
- Lack of pollination.
- Blacknose.
- Side spot.
- Black scald.
- Improper ripening.
- Other defects.

Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

Not more than 1/3 of the additional allowance, or 5 percent,[1] may be the following:

Damaged by:
- Improper ripening.
- Other defects.

Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

Not more than 1/15 of the additional allowance, or 1 percent,[1] may be the defect shown below:

Affected by decay.

CHART NO. III—ALLOWANCES AND LIMITATIONS FOR DEFECTS IN WHOLE AND PITTED PROCESSED DATES OR IN WHOLE DRY DATES FOR PROCESSING; U. S. GRADE C OR U. S. STANDARD AND U. S. GRADE C (DRY) OR U. S. STANDARD (DRY)

TOTAL ALLOWANCES

Not more than a total of 20 percent[1] for the following defects:

Damaged by:
- Deformity.
- Scars.
- Sunburn.
- Insect injury.
- Improper hydrating.
- Mashing.
- Mechanical injury.
- Lack of pollination.
- Blacknose.
- Side spot.
- Black scald.
- Improper ripening.
- Other defects.

Seriously damaged by puffiness.
Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

LIMITATIONS

Not more than 1/2 of the total allowance, or 10 percent,[1] may be the following:

Damaged by:
- Lack of pollination.
- Blacknose.
- Side spot.
- Black scald.
- Improper ripening.
- Other defects.

Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

Not more than 1/4 of the total allowance, or 5 percent,[1] may be the following:

Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

Not more than 1/10 of the total allowance, or 2 percent,[1] may be the defect shown below:

Affected by decay.

§ 52.1009 *Character*—(a) *(A) classification.* Whole or pitted processed dates that possess a good character may be given a score of 27 to 30 points. "Good character" means that not less than 75 percent, by weight, of the dates are well developed, well fleshed, soft, or are in a state of ripeness that will develop into such character; and the remainder may possess a reasonably good character including not more than a total of 2 percent, by weight, of the dates that may possess semi-dry calyx ends and none may possess dry calyx ends.

(b) *(B) classification.* If the whole or pitted processed dates or whole dry dates for processing possess a reasonably good character, a score of 24 to 26 points may be given. Dates that fall into this classification shall not be graded above U. S. Grade B or U. S. Choice or U. S. Grade B (Dry) or U. S. Choice (Dry), which-

[1] Percentages are by weight.

ever is applicable, regardless of the total score for the product (this is a limiting rule) "Reasonably good character" means that not less than 75 percent, by weight, of the dates are reasonably well developed, reasonably well fleshed, or are in a state of ripeness that will develop into such character; that whole and pitted processed dates are pliable; and the remainder may possess a fairly good character including not more than 10 percent, by weight, of the dates that may possess semi-dry calyx ends and dry calyx ends: *Provided,* That not more than 2 percent, by weight, of the dates may possess dry calyx ends.

(c) *(C) classification.* If the whole or pitted processed dates or whole dry dates for processing, date pieces, or macerated dates possess a fairly good character, a score of 21 to 23 points may be given. Dates that fall into this classification shall not be graded above U. S. Grade C or U. S. Standard or U. S. Grade C (Dry) or U. S. Standard (Dry) whichever is applicable, regardless of the total score for the product (this is a limiting rule) "Fairly good character" has the following meanings with respect to the following styles:

(1) *Whole; pitted.* Not less than 80 percent, by weight, of the dates are fairly well developed, fairly well fleshed, and may possess semi-dry calyx ends, or are in a state of ripeness that will develop into such character; that whole and pitted processed dates may be firm but are pliable; and the remainder may fail to possess such fairly good character or may possess dry calyx ends.

(2) *Pieces; macerated.* The character may be variable throughout the units or mass but not seriously affected by dry calyx end material or inedible portions of dates.

(d) *(SStd) classification.* Dates that fail to meet the requirements of paragraph (c) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule)

LOT CERTIFICATION TOLERANCES

§ 52.1010 *Tolerances for certification of officially drawn samples.* (a) When certifying samples that have been officially drawn and which represent a specific lot of dates the grade for such lot will be determined by averaging the total scores of the containers comprising the sample, if with respect to those factors which are scored:

(1) Not more than one-sixth of the containers fails to meet the grade indicated by the average of such total scores;

(2) None of the containers falls more than 4 points below the minimum score for the grade indicated by the average of such total scores;

(3) None of the containers falls more than one grade below the grade indicated by the average of such total scores; and

(4) The average score of all containers for any factor subject to a limiting rule is within the score range of that factor for the grade indicated by the average of the total scores of the containers comprising the sample.

SCORE SHEET

§ 52.1011 *Score sheet for dates.*

Size and kind of container			
Container mark or identification			
Label or brand			
Net weight			
Style			
Count (per lb.)			
Moisture content (if determined)			
One variety (□) Yes (□) No			
Factors	**Score points**		
Color	30	(A)	27-30
		(B) (B-Dry)	[1] 24-26
		(C) (C-Dry)	[1] 21-23
		(SStd)	[1] 0-20
Uniformity of size	10	(A)	9-10
		(B) (B-Dry)	[1] 8
		(C) (C-Dry)	[1] 7
		(SStd)	[1] 0- 6
Absence of defects	30	(A)	27-30
		(B) (B-Dry)	[1] 24-26
		(C) (C-Dry)	[1] 21-23
		(SStd)	[1] 0-20
Character	30	(A)	27-30
		(B) (B-Dry)	[1] 24-26
		(C) (C-Dry)	[1] 21-23
		(SStd)	[1] 0-20
Total score	100		
Grade			

[1] Limiting rule.

Dated: June 27, 1955.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 55-5261; Filed, June 29, 1955; 8:56 a. m.]

[7 CFR Part 914]

NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

ORDER DIRECTING THAT A REFERENDUM BE CONDUCTED; DESIGNATION OF REFERENDUM AGENTS TO CONDUCT SUCH REPERENDUM; AND DETERMINATION OF REPRESENTATIVE PERIOD

Pursuant to the applicable provisions of Marketing Agreement No. 117, as amended, and Order No. 14, as amended (7 CFR Part 914) and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat., as amended, 7 U. S. C. 601 et seq.) it is hereby directed that a referendum be conducted among the growers who, during the period November 1, 1954, through June 30, 1955 (which period is hereby determined to be a representative period for the purposes of such referendum) were engaged, in the State of Arizona and that part of the State of California, south of the 37th Parallel, in the production of navel oranges for market to determine whether such growers favor continuation of the said marketing agreement and order. Warren C. Noland and Edward H. Bixby of the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, are hereby designated as agents of the Secretary of Agriculture to perform, jointly, or severally, the following functions in connection with the referendum:

(a) Conduct said referendum in the manner herein prescribed:

(1) By giving opportunity for each of the aforesaid growers to cast his ballot, in the manner herein authorized, relative to the aforesaid continuance of the amended marketing agreement and order, on a copy of the appropriate ballot form. A cooperative association of such growers, bona fide engaged in marketing navel oranges grown in the aforesaid production area or in rendering services for or advancing the interests of the growers of such navel oranges, may vote for the growers who are members of, stockholders in, or under contract with, such cooperative association (such vote to be cast on a copy of the appropriate ballot form), and the vote of such cooperative association shall be considered as the vote of such growers.

(2) By determining the time of commencement and termination of the period of the referendum and by giving public notice, as prescribed in (a) (3) hereof, (i) of the time during which the referendum will be conducted, (ii) that any ballot may be cast by mail, and (iii) that all ballots so cast must be addressed to Warren C. Noland, Field Representative, Fruit and Vegetable Division, Agricultural Marketing Service, 1031 South Broadway, Room 1005, Los Angeles 15, California, and the time prior to which such ballots must be postmarked.

(3) By giving public notice (i) by utilizing available agencies of public information (without advertising expense), including both press and radio facilities in the State of Arizona and designated part of California; (ii) by mailing a notice thereof (including a copy of the appropriate ballot form) to each such cooperative association and to each grower whose name and address are known; and (iii) by such other means as said referendum agents or any of them may deem advisable.

(4) By conducting meetings of growers and arranging for balloting at the meeting places, if said referendum agents or any of them determine that voting shall be at meetings. At each such meeting balloting shall continue until all of the growers who are present, and who desire to do so, have had an opportunity to vote. Any grower may cast his ballot at any such meeting in lieu of voting by mail.

(5) By giving ballots to growers at the meetings, and receiving any ballots when they are cast.

(6) By securing the name and address of each person casting a ballot, and inquiring into the eligibility of such person to vote in the referendum.

(7) By giving public notice of the time and place of each meeting authorized hereunder by posting a notice thereof, at least two days in advance of each such meeting, at each such meeting place, and in two or more public places within the applicable area, and, so far as may be practicable, by giving additional notice in the manner prescribed in paragraph (a) (3) hereof.

(8) By appointing such person or persons as are deemed necessary or desirable to assist said agents in performing their functions hereunder. Each person so appointed shall serve without compensation and may be authorized, by said referendum agents or any of them,

to perform any or all of the functions set forth in paragraphs (a) (5) (6) (7) and (8) hereof (which, in the absence of such appointment of sub-agents, shall be performed by said referendum agents) in accordance with the requirements set forth; and shall forward to Warren C. Noland, Field Representative, Fruit and Vegetable Division, Agricultural Marketing Service, 1031 South Broadway, Room 1005, Los Angeles 15, California, immediately after the close of the referendum, the following:

(i) A register containing the name and address of each grower to whom a ballot form was given;

(ii) A register containing the name and address of each grower from whom an executed ballot was received;

(iii) All of the ballots received by the respective referendum agent in connection with the referendum, together with a certificate to the effect that the ballots forwarded are all of the ballots cast and which were received by the respective agent during the referendum period;

(iv) A statement showing when and where each notice of the referendum posted by said agent was posted and, if the notice was mailed to growers, the mailing list showing the names and addresses to which the notice was mailed and the time of such mailing, and

(v) A detailed statement reciting the method used in giving publicity to such referendum.

(b) Upon receipt by Waren C. Noland of all ballots cast in accordance with the provisions hereof, he shall canvass the ballots and prepare and submit to the Secretary a detailed report covering the results of the referendum, the manner in which the referendum was conducted, the extent and kind of public notice given, and all other information pertinent to the full analysis of the referendum and its results; and shall forward such report, together with the ballots and other information and data, to the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C.

(c) Each referendum agent and appointee pursuant hereto shall not refuse to accept a ballot submitted or cast; but should they, or any of them, deem that a ballot should be challenged for any reason, or if such ballot is challenged by any other person, said agent or appointee shall endorse above his signature, on the back of said ballot, a statement that such ballot was challenged, by whom challenged, and the reasons therefor; and the number of such challenged ballots shall be stated when they are forwarded as provided herein.

(d) All ballots shall be treated as confidential.

The Director of the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby authorized to prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the said referendum agents and appointees in conducting said referendum.

Copies of the text of the aforesaid amended marketing agreement and order may be examined in the Office of the Hearing Clerk, United States Department of Agriculture, Washington, D. C., and at the Western Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, 1031 South Broadway, Room 1005, Los Angeles 15, California.

Ballots to be cast in the referendum may be obtained from any referendum agent, and any appointee hereunder.

Dated: June 27, 1955.

[SEAL] EARL L. BUTZ,
Assistant Secretary.

[F. R. Doc. 55-5257; Filed, June 29, 1955; 8:55 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 521]

APPRENTICES

ISSUANCE OF SPECIAL CERTIFICATES; RECONSIDERATION AND REVIEW

Pursuant to sections 11 and 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1066, 1068, as amended; 29 U. S. C. 211, 214), the Administrator has heretofore issued regulations governing the Employment of Apprentices, contained in 29 CFR Part 521, §§ 521.1 to 521.12.

It is now considered necessary to amend these regulations to make them consistent with other regulations issued pursuant to section 14 of the act by adding a new paragraph (c) to § 521.6, and by making certain editorial changes in § 521.11.

Accordingly, pursuant to authority under section 14 of the Fair Labor Standards Act, as amended (52 Stat. 1068, as amended; 29 U. S. C. 214) (NOTE: § 521.12 of the regulations (29 CFR Part 521)), Reorganization Plan No. 6 of 1950 (5 U. S. C. 611) General Order No. 45-A (15 F R. 3290) and, the position of the Administrator being presently vacant, General Order No. 85 (20 F. R. 2066), notice is hereby given that I propose to amend §§ 521.6 and 521.11 of Part 521 to read as follows:

§ 521.6 *Issuance of special certificates.* (a) If the apprenticeship agreement and other available information indicate that the requirements of § 521.3 and the other requirements of this part are satisfied, the Administrator or his authorized representative shall issue a special certificate in accordance with § 521.1. Otherwise, he shall deny the special certificates.

(b) The special certificate, if issued, shall be mailed to the employer or the joint apprenticeship committee and a copy shall be mailed to the apprentice. If a special certificate is denied, the employer or the joint apprenticeship committee, the apprentice and the recognized apprenticeship agency shall be given written notice of the denial. The employer shall pay the apprentice the minimum wage applicable under section 6 of the act from the date of receipt of notice of such denial.

(c) A special certificate will not be issued where there are serious outstanding violations involving the employee for whom an apprentice certificate is being requested, or where there are any serious outstanding violations of a certificate previously issued, or where there have been any serious violations of the act which provide reasonable grounds to conclude that the terms of a certificate may not be complied with, if issued.

§ 521.11 *Reconsideration and review.* (a) Any person aggrieved by the action of an authorized representative of the Administrator in denying, granting, or cancelling a special certificate may, within 15 days after such action, (1) file a written request for reconsideration thereof by the authorized representative of the Administrator who made the decision in the first instance, or (2) file a written request for review of the decision by the Administrator or an authorized representative who has taken no part in the action which is the subject of review.

(b) A request for reconsideration shall be accompanied by a statement of the additional evidence which the applicant believes may materially affect the decision together with a showing that there were reasonable grounds for failure to present such evidence in the original proceedings.

(c) Any person aggrieved by the reconsidered determination of an authorized representative of the Administrator may within 15 days after such determination, file with the Administrator a written request for review.

(d) A request for review shall be granted where reasonable grounds for the review are set forth in the request.

(e) If a request for reconsideration or review is granted, all interested persons shall be afforded an opportunity to present their views.

Within twenty days from the date of publication of this notice in the FEDERAL REGISTER interested persons may submit written data, views or arguments to the proposed actions herein described. All data, views or arguments should be submitted in quadruplicate to the Office of the Administrator, Wage and Hour Division, United States Department of Labor, Washington 25, D. C., and should include supporting reasons therefor.

Signed at Washington, D. C., this 24th day of June 1955.

STUART ROTHMAN,
Solicitor of Labor.

[F. R. Doc. 55-5218; Filed, June 29, 1955; 8:48 a. m.]

[29 CFR Parts 655, 657, 671, 673, 696, 698, 706]

VARIOUS INDUSTRIES IN PUERTO RICO

MINIMUM WAGE RATES; HEARING

In conformity with sections 5 and 8 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U. S. C., and Supp. 201 et seq.) and in accordance with § 511.11 of the regulations issued pursuant thereto (Title 29, Chapter V Code of Federal Regulations, Part 511), notice is hereby given

to all interested persons that a public hearing will be held beginning on July 11, 1955, at 10:00 a. m., or as soon thereafter as feasible, in Room 412, New York Department Store Building, Stop 16½, Ponce de Leon Avenue, Santurce, Puerto Rico, for the purpose of receiving evidence to be considered by Special Industry Committees Nos. 17–A, 17–B, 17–C, 17–D, and 17–E for Puerto Rico in recommending minimum wage rates for employees in the industries in Puerto Rico hereinafter enumerated.

Special Industry Committees Nos. 17–A, 17–B, 17–C, 17–D and 17–E for Puerto Rico were created by Administrative Order No. 443, published in the FEDERAL REGISTER on June 10, 1955. The committees are charged, in accordance with the provisions of the Fair Labor Standards Act of 1938, as amended, and regulations promulgated thereunder, with the duty of investigating conditions in the following industries in Puerto Rico, as defined in said Administrative Order: The silk, rayon and nylon underwear division, and the miscellaneous division, of the needlework and fabricated textile products industry; alcoholic beverage and industrial alcohol industry; food and related products industries; Tobacco industry; and the telephone division, the radio and television broadcasting division and the gas utility division of the communications, utilities, and miscellaneous transportation industries.

The Committee is further charged with the duty of recommending to the Office of the Administrator the highest minimum wage rates (not in excess of 75 cents per hour) for all employees in Puerto Rico in the industries mentioned above who within the meaning of said act are "engaged in commerce or in the production of goods for commerce," excepting employees exempted by the provisions of section 13 (a) and employees coming under the provisions of section 14, which, having due regard to the economic and competitive conditions, will not substantially curtail employment in such industries and will not give any industry in Puerto Rico a competitive advantage over any industry in the United States outside of Puerto Rico. Before any minimum wage rates recommended by the Committee are made effective, a public hearing will be held pursuant to section 8 of the act, at a time and place to be announced by the Office of the Administrator and at which all interested persons will have an opportunity to be heard.

At the discretion of the committee any person who, in the opinion of the committee or its duly authorized subcommittee, has a substantial interest in the proceeding and is prepared to present material pertinent to the question under consideration either on his own behalf or on behalf of any other person, may be afforded an opportunity to be heard orally. In this connection, attention is invited to the notice of investigation published in the FEDERAL REGISTER on June 4, 1955. The notice requests all persons who desire to participate in these proceedings to file not later than July 1, 1955, notices of appearance together with written statements or briefs for the consideration of the committees. In addition, the notice contains illustrations of the types of information which the committees are interested in receiving. Eight copies of such statement or briefs should be filed with Dr. James G. Johnson, Territorial Director of Wage and Hour Division, Post Office Box 9061, Santurce 29, Puerto Rico. Supplemental written statements and briefs may be filed with Dr. Johnson at any time prior to the date that the committee for the particular industry convenes. Written statements or briefs containing factual data submitted by persons who cannot appear personally will be considered by the committees provided that such statements or briefs are sworn.

All testimony will be taken under oath and subject to reasonable cross examination by any interested person present. The testimony adduced at the hearing, including the written statements and briefs referred to above, will be offered as evidence at the public hearing to be held on such minimum wage recommendations as the above-mentioned committees for Puerto Rico may make.

Signed at Rio Piedras, Puerto Rico, this 24th day of June 1955.

JAIME BENITEZ,
Chairman, Special Industry Committees Nos. 17–A, 17–B, 17–C, 17–D, and 17–E for Puerto Rico.

[F. R. Doc. 55–5245; Filed, June 29, 1955; 8:52 a. m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 55]

OPERATORS' LICENSES

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that adoption of the following rules is contemplated. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed rules should send them to the United States Atomic Energy Commission, Washington 25, D. C., Attention: Director, Division of Licensing, within 30 days after publication of this Notice in the FEDERAL REGISTER.

GENERAL PROVISIONS

GENERAL PROVISIONS

§ 55.1 *Purpose.* (a) The regulations in this part establish procedures and minimum criteria for the issuance of licenses to operators of production and utilization facilities licensed pursuant to the Atomic Energy Act of 1954 (68 Stat. 919) and establish and provide for the terms and conditions upon which the Commission will issue such licenses.

(b) The regulations contained in this part are issued pursuant to the Atomic Energy Act of 1954.

§ 55.2 *Scope.* (a) The regulations contained in this part apply to any individual who manipulates the controls of any facility licensed pursuant to section 103 or 104 of the act.

(b) No individual shall manipulate the controls of any facility licensed pursuant to section 103 or 104 of the act without a valid license issued pursuant to the regulations in this part.

§ 55.3 *Definitions.* As used in this part,

(a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto;

(b) "Controls" means those controls of a production or utilization facility which by manipulation or failure to manipulate singly or in combination, could result in the release of atomic energy or radioactive material in amounts determined by the Commission to be sufficient to cause danger to the health and safety of the public.

(c) "Commission" means the Atomic Energy Commission or its duly authorized representatives;

(d) "Facility" means any "production facility" or "utilization facility" as defined in Part 50 of this chapter.

(e) "Class of facility" means facilities determined by the Commission to be sufficiently similar in design and operating characteristics to warrant licensing an individual to operate any of the facilities within the class;

(f) "Operator" means any individual who manipulates the controls of any facility. An individual is deemed to manipulate a control if he (1) decides when or how to manipulate the control and (2) either manipulates the control himself or directs another individual to manipulate such control in his presence.

(g) "United States" when used in a geographical sense, includes all Territories and possessions of the United States, and the Canal Zone.

§ 55.4 *Communications.* All communications concerning the regulations in this part, including applications for initial licenses and renewals thereof, should be addressed to the United States Atomic Energy Commission, at 1901 Constitution Avenue NW., Washington 25, D. C.

§ 55.5 *Interpretations.* Except as specifically authorized by the Commission in writing, no interpretation of the

meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Manager, the General Counsel, or the Director of the Division of Licensing will be recognized to be binding upon the Commission.

APPLICATIONS

§ 55.10 *Contents of applications.* (a) Each application shall contain the following information:

(1) The full name, citizenship, age, address, and present employment of the applicant;

(2) The education and experience of the applicant;

(3) Serial numbers of any licenses previously held by the applicant, and whether such licenses are still in effect, have expired, or have been revoked, modified or suspended.

(4) The specific control or controls of the facility or class of facility for the manipulation of which the applicant seeks the license;

(5) The facility at which the applicant proposes to be tested for operating proficiency, and the written consent of the facilities licensee to the use of that facility for such test.

(6) Evidence that the applicant has learned to operate the control or controls in a competent and safe manner. Ordinarily the Commission will accept as proof of this a certification of a qualified instructor or supervisor responsible for the safe operation of the facility in which applicant will be employed.

(b) The applicant shall also cause to be furnished a report of a medical examination by a licensed medical practitioner in the form prescribed in § 55.60.

(c) The Commission may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Commission to determine whether the application should be granted or denied or whether a license should be revoked, modified, or suspended.

(d) Each application and statement shall contain complete and accurate disclosure as to all matters and things required to be disclosed. All applications and statements shall be signed by the applicant or licensee under oath or affirmation.

§ 55.11 *Requirements for the approval of application.* An application for a license pursuant to the regulations in this part will be approved upon a showing that:

(a) The physical condition and the general health of the applicant are not such as to be expected to cause operational errors which might endanger public health and safety;

(b) The applicant has passed an operating test and written examinations as prescribed by the Commission;

(c) The applicant has learned to operate the control or controls in a competent and safe manner.

OPERATING TEST AND WRITTEN EXAMINATION

§ 55.20 *Scope.* To the extent applicable, the operating test and written examination shall test:

(a) The applicant's understanding of and familiarity with the following aspects of the facility:

(1) The general design and operating characteristics;

(2) The control and safety mechanisms;

(3) All control-station instrumentation;

(4) Standard operating procedures;

(5) Emergency shutdown system;

(6) Such other aspects as may be important to the safe operation of the facility.

(b) The applicant's ability to read and interpret the control instrumentation of the facility and to manipulate the control equipment of the facility in a safe manner, and the applicant's knowledge of how to operate the facility, including operation under emergency conditions.

§ 55.21 *Waiver* (a) Upon written request, the Commission may waive the requirement of any or all of the oral, written, or operating test upon a showing that:

(1) The applicant has operated similar controls of a substantially similar facility, and

(2) Has discharged his responsibilities in a competent and safe manner and is capable of continuing in this manner. Ordinarily the Commission will accept as proof of this a certification of a supervisor responsible for the safe operation of the facility where the individual was previously employed.

(b) Where a waiver of the examination is requested by an applicant, the information to support such request should accompany the application for an operator license.

LICENSES

§ 55.30 *Issuance of licenses.* Upon a determination that an application meets the requirements of the act and of the regulations of the Commission, the Commission will issue a license in such form and containing such conditions and limitations as it deems appropriate and necessary.

§ 55.31 *Conditions of the licenses.* Each license shall contain and be subject to the following conditions whether stated in the license or not:

(a) Neither the license nor any right under the license shall be assigned or otherwise transferred;

(b) The license is limited to the facility or class of facility for which it is issued.

(c) The license is limited to those controls of the facility or class of facility specified in the license;

(d) The license shall be subject to, and the licensee shall observe all applicable rules, regulations and orders of the Commission.

(e) Such other conditions as the Commission may impose to protect health or to minimize danger to life or property.

§ 55.32 *Expiration.* Each operator license shall expire two years after the date of its issuance.

§ 55.33 *Renewal of licenses.* (a) Application for renewal of a license shall be signed by the applicant under oath or affirmation and shall contain the following information:

(1) The full name, citizenship, address, and present employment of the applicant;

(2) The serial number of the license for which renewal is sought;

(3) The work experience of the applicant since the previous application;

(4) Evidence that the licensee has discharged his license responsibilities in a competent and safe manner. Ordinarily the Commission will accept as proof of this certification of a supervisor responsible for the safe operation of the facility where the licensee has been employed.

(b) The applicant shall cause to be furnished a report of a medical examination by a licensed medical practitioner in form prescribed in § 55.60.

(c) In any case in which a licensee has filed an application in proper form for renewal more than thirty (30) days prior to the expiration of his existing license such existing license shall not expire until the application for a renewal has been finally acted upon by the Commission.

(d) The license will be renewed upon a showing that:

(1) The physical condition and the general health of the licensee continues to be such that it is not expected to cause operational errors which might endanger public health and safety.

(2) The licensee has discharged his license responsibilities in a competent and safe manner and is capable of continuing in this manner. If the licensee has not been actively engaged as an operator under his license during the previous license period the Commission may require him to take an oral, written, and operating test.

MODIFICATION AND REVOCATION OF LICENSES

§ 55.40 *Modification and revocation of licenses.* (a) The terms and conditions of all licenses shall be subject to amendment, revision, or modification by reason of amendments to the act, or by reason of rules, regulations or orders issued in accordance with the act or any amendments thereto.

(b) Any license may be revoked, modified, or suspended for any material false statement in the application or any statement of fact required under section 182 of the act, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application, or for violations of, or failure to observe any of the terms and conditions of the act, or of any rule or regulation of the Commission.

(c) The Commission may revoke or suspend any license for violation of any applicable rule or regulation or any condition of the license or any personal behavior on the job deemed by the Commission to be a hazard to the safe operation of the facility.

ENFORCEMENT

§ 55.50 *Violations.* An injunction or other court order may be obtained pro-

hibiting any violation of any provision of the act or any regulation or order issued by the commission under the act. Any person who wilfully violates any provision of the act or of the regulations in this part may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both.

CERTIFICATE OF MEDICAL EXAMINATION FOR OPERATOR'S LICENSE

§ 55.60 *Examination form.*

1. Mr. Mrs. Miss (First Name) (Middle Initial) (Last)	2. Date of Birth	3. Sex Male Female

4. Address

Medical History
(To be completed by applicant)

Have you ever had or do you now have any of the following? If so, please write the listed number of the condition in the space below, including approximately year or age you had condition.

1. Rheumatic fever.
2. Frequent severe headaches.
3. Dizziness or fainting spells.
4. Severe eye trouble or injury.
5. Pain or pressure in chest.
6. High blood pressure.
7. Bone or joint deformity.
8. Painful or "trick" shoulder.
9. Painful or "trick" elbow.
10. Paralysis.
11. Fits or epilepsy.
12. Loss of memory.
13. Depression.
14. Severe emotional disturbance.
15. Ulcer of stomach.

Number														
Year or age														

16. If you have not had or do not have any of the above conditions please state "none" here.

Please answer the following questions "yes" or "no"	*Answer*
17. Have you ever been rejected or rated up for insurance, rejected for employment, or by the armed forces because of your physical condition or are you partially disabled in any way?	
18. Has your work ever had to be limited or restricted on account of your health?	

19. Please state details if answers to "17" or "18" are "yes"

Physical Examination Record
(To be completed by examining physician)

1. Eyes:
(A) Distant vision (snellen): without glasses: Right $\frac{20}{\square}$ Left $\frac{20}{\square}$ with glasses, if worn: Right $\frac{20}{\square}$ Left $\frac{20}{\square}$
(B) Evidence of disease or injury:
Right..... Left.....
(C) Color vision: Is color vision normal when Ishihara or equivalent color test is used?..... Yes ..... No

2. Ears: (Consider denominators indicated here as normal. Record as numerators the greatest distance heard.)
Ordinary conversation: Right ear $\frac{\quad}{20\text{ Ft.}}$
Left ear $\frac{\quad}{20\text{ Ft.}}$ Evidence of disease or injury: Right ear ..... Left ear.....

3. Gastro-Intestinal	(A) History of Peptic Ulcer: .....Yes .....No If "Yes" is Ulcer: ..... Active .....Quiescent ..... Healed How long ..... Date of last X-ray.....
4. Heart and blood vessels	(A) Blood pressure: Systolic..... MM. HG. Diastolic.....
(B) Is organic heart disease present? .....Yes .....No.	(C) If organic heart disease is present, is it fully compensated? .....Yes .....No.

(D) Pulse rate:
Sitting ..... Immediately after exercise.....
Two minutes after exercise..... Cardiac reserve.....
(Good, fair, or poor)

5. Lungs: Have X-ray made and give report
Right..... Left.....
History of tuberculosis? .....Yes .....No. If "Yes", how long has the disease been arrested.

6. Deformities, atrophies, and other abnormalities, diseases not included above?

7. Nervous system: (A) Includes symptoms and full history of any mental, nervous, or emotional abnormality (use additional sheets if necessary):
(B) Has applicant ever been hospitalized or treated for a mental illness? ..... Yes ..... No.
(C) Where (name and location of hospital):
(D) Date or dates of hospitalization:
(E) Any history of epilepsy or fainting spells or drug addiction (including alcoholism)? ..... Yes ..... No.
If so, give details under "Remarks"
(F) Are there any signs of nervous disease ..... Yes ..... No. If so, give details under "Remarks"

8. Remarks:

The foregoing examination does not reveal any mental or physical disability or drug habit (including alcoholism) which might cause impaired judgment or motor coordination.

Date: .....
Signature of Examining Physician: ....., M. D.
Address of Examining Physician: .....

Dated at Washington, D. C., this 15th day of June 1955.

K. E. FIELDS,
General Manager

[F. R. Doc. 55-5201; Filed, June 29, 1955; 8:45 a. m.]

FEDERAL POWER COMMISSION

[18 CFR Parts 154, 157]

[Docket No. R-145]

RATE SCHEDULES AND TARIFFS; APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

NOTICE OF EXTENSION OF TIME TO SUBMIT DATA, VIEWS AND COMMENTS

JUNE 22, 1955.

Upon consideration of the request of the Federal Power Bar Association, filed June 21, 1955, for an extension of time for filing data, views and comments with respect to proposed rules in the above-entitled matter;

An extension is hereby granted to and including August 1, 1955, within which to submit data, views and comments on the proposed rules pursuant to the notice dated June 1, 1955 (20 F R. 4368) and the supplemental notice dated June 15, 1955 (20 F R. 4548)

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5220; Filed, June 29, 1955; 8:49 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 53827]

CIGAR LIGHTERS

REVOCATION OF ORDER PROHIBITING ENTRY INTO U. S.

JUNE 28, 1955.

There is published below a memorandum from the President to the Secretary of the Treasury dated June 21, 1955, containing an order issued pursuant to the authority contained in section 337, Tariff Act of 1930, as amended, revoking the Order of the President dated March 17, 1934, as amended (T. D. 47001, T. D. 51238) excluding certain cigar lighters from entry into the United States.

[SEAL] RALPH KELLY,
Commissioner of Customs.

MEMORANDUM FOR THE SECRETARY OF THE TREASURY

Certain cigar lighters are now being refused entry into the United States under paragraph (a) of the President's Order of March 17, 1934, issued pursuant to the provisions of section 337 of the Tariff Act of 1930 (T. D. 47001). I now find that the conditions which led to such refusal of entry no longer exist, and the said order of March 17, 1934, as amended, is hereby revoked. You will please be guided accordingly.

/signed/ DWIGHT D. EISENHOWER

[F. R. Doc. 55-5316; Filed, June 29, 1955; 8:58 a. m.]

Internal Revenue Service

[Commissioner Delegation Order 6]

ASSISTANT COMMISSIONER (TECHNICAL)

DELEGATION OF AUTHORITY TO GRANT AUTHORIZATIONS OF AGENTS

Delegation of authority to grant authorizations of agents under section 3504 of the Internal Revenue Code of 1954.

Pursuant to the authority vested in me as Commissioner of Internal Revenue, it is directed that:

(1) The authority to grant authorizations of agents to perform all acts required of employers under chapters 21, 24 and 25, subtitle C of the Internal Revenue Code of 1954, is delegated to the Assistant Commissioner (Technical) to be exercised in accordance with applicable regulations and procedures.

(2) The Assistant Commissioner (Technical) is authorized to redelegate the authority to such subordinates within his jurisdiction as, in his judgment, may be desirable.

This order is effective June 1, 1955.

[SEAL] T. COLEMAN ANDREWS,
Commissioner.

[F. R. Doc. 55-5246; Filed, June 29, 1955; 8:53 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

SHORESPACE RESTORATION ORDER NO. 526

JUNE 22, 1955.

By virtue of the authority contained in the act of June 5, 1920 (41 Stat. 1059; 48 U. S. C. 372) and pursuant to delegation of authority contained in section 1.5 (c) Part 1 of Order No. 541 of April 21, 1954, it is ordered as follows:

Beginning at 10:00 a. m. on the 21st day after the date of this order the 80-rod shorespace reserves created under the act of May 14, 1890 (30 Stat. 409) as amended by the act of March 3, 1903 (32 Stat. 1028; 48 U. S. C. 371) as they exist now or as they may hereafter be created by the initiation of claims under the public land laws are hereby revoked insofar as applicable to the following described lands. Subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law, and the 91-day preference right filing period for veterans, and other qualified persons entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284) the following lands are hereby restored to entry under the public land laws:

ANCHORAGE LAND DISTRICT

A tract of land located on Cook Inlet approximately 1½ miles north of Three Mile Creek at approximate latitude 61°10' N., longitude 151°02'30" W., more particularly described as follows:

Beginning at Earl F. Robert's Corner No. 4 (U. S. Survey No. 3072) as Corner No. 1; thence west 330 feet to Corner No. 2; thence north 660 feet to Corner No. 3; thence east 330 feet to Corner No. 4; thence south 660 feet to Corner No. 1, the point of beginning, containing approximately 5 acres. (Application under the Headquarters Site Act by Emil A. Giese, Anchorage 026926.)

A tract of land located on the north side of China Poot Bay and east of U. S. Survey No. 1539, more particularly described as follows:

An area ¼ mile deep from mean high tide described as follows: Commencing at Corner No. 1 of U. S. Survey No. 1539; thence in a southerly and easterly direction following the northeasterly side of China Poot Bay for an approximate distance of 2 miles and to Corner No. 5 of U. S. Survey No. 2893, containing approximately 320 acres. (Headquarters site application of James E. Allen, Anchorage 024475 is included in above described land.)

A tract of land located approximately 2 miles upstream from the mouth of Alexander Creek and about 2 miles below Granite Creek at longitude 150°37' W. and latitude 61°25' N., more particularly described as follows:

20 acres of land running southerly along the west bank of Alexander Creek for 80 rods and westerly 40 rods, northerly 80 rods and easterly 40 rods, back to the point of beginning, which is also the southeast corner of the homesite of James F. St. Claire, Anchorage 018721. (Homestead location notice of Clinton Ducker, Anchorage 022173.)

A tract of land situated on Fritz Cove, Alaska, more particularly described as follows:

Lot 3, U. S. Survey 3281, containing 1.78 acres. (Homesite application of Daniel F. Hudson, Anchorage 021795.)

A tract of land situated on Fritz Cove, Alaska, more particularly described as follows:

Lot 1, U. S. Survey 3281, containing 2.02 acres. (Homesite application of Mrs. Edward Maki, Anchorage 021807.)

A tract of land situated on Valdez Bay, more particularly described as follows:

Starting at the SE corner of U. S. Survey No. 3329, thence 100' along the Mineral Creek Road in a westerly direction; thence 100' across Mineral Creek in a southerly direction to Corner No. 1; thence 300' along Mineral Creek Road in a westerly direction to Corner No. 2; thence approximately 600' in a southerly direction to Port Valdez to Corner No. 3; thence approximately 330' in an easterly direction to Corner No. 4; thence approximately 600' in a northerly direction to Corner No. 1, the point of beginning, containing approximately 4 acres.

A tract of land situated near Naknek within ¼ mile of Naknek River at approximate latitude 58°44'00" N., longitude 157°03'00" W., more particularly described as follows:

Beginning at Corner No. 2 of U. S. Survey No. 880 "R. G. M. Reserve" thence north 73° 15' E. approximately 900 feet to a point; thence south 16° 45' E. approximately 430 feet to Corner No. 3 of U. S. Survey No. 544; thence south 73° 15' W. 726 feet to corner No. 2 of U. S. Survey No. 544; thence south 49° 10' W. 182.16 feet to Corner No. 1 of U. S. Survey No. 2325; thence north 16° 50' W. 496.32 feet to Corner No. 2 of U. S. Survey No. 880 and the point of beginning containing approximately 9 acres. (Headquarters site application of Allen Nelson, Anchorage 028946 is included in above described land.)

A tract of land abutting Seventeen Mile Lake (as per U. S. G. S. Topographic map) which lies in the valley immediately south of Wishbone Hill in the Eska area, more particularly described as follows:

SEWARD MERIDIAN

Township 19 North, Range 3 East,
Section 30: Lot 4.
Containing 51.14 acres.

SEWARD MERIDIAN

Township 3 North, Range 12 West,
Section 27: Lots 5, 6, 7, 8 and N½SE¼.
Containing 135.07 acres.

Four tracts of land located on the left bank of Kenai River and south side of Kenai Lake about ¾ mile easterly from Cooper Landing, Alaska, more particularly described as follows:

Lots 10, 12, 13, and 14 of U. S. Survey No. 2525 Containing 16.87 acres. (Lot 10 is embraced in the homesite application of Sherman Clayton Smith, Jr., Anchorage 028960.)

LOWELL M. PUCKETT,
Area Administrator.

[F. R. Doc. 55-5209; Filed, June 29, 1955; 8:46 a. m.]

WASHINGTON

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JUNE 23, 1955.

An application, serial number W-0911, for the withdrawal from all forms of appropriation under the public land laws, including mining and mineral leasing laws, of the lands described below was filed on March 24, 1953, by Corps of Engineers, U. S. Army, Seattle District, Seattle, Washington. The purposes of the proposed withdrawal: For use in connection with reservoir site of the Chief Joseph Dam Project.

For a period of 30 days from the date of publication of this notice, persons having cause to object to the proposed withdrawal may present their objections in writing to the State Supervisor Area I, Bureau of Land Management, Department of the Interior, at Room 209, Federal Building, Spokane, Washington. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where proponents of the order can explain its purpose.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER, either in the form of a public land order or in the form of a Notice of Determination if the application is rejected. In either case, a separate notice will be sent to each interested party of record.

The lands involved in the application are:

WASHINGTON—WILLAMETTE MERIDIAN

T. 30 N., R. 28 E.,
Sec. 9, Lot 2, SE¼SE¼.
Sec. 13, Lot 2;
Sec. 17, Lots 1 and 2;
Sec. 14, Lots 1, 2, 3, NW¼SE¼, SW¼NW¼.
Sec. 20, Lots 1, 2, 3 and 4;
Sec. 29, Lots 1, 2, 3 and 4;
Sec. 31, Lots 7, 8 and 9;
Sec. 32, Lots 1, 2 and 3.
T. 30 N., R. 29 E.,
Sec. 7, Lots 7 and 9.
T. 31 N., R. 30 E.,
Sec. 31, Lot 7.
T. 29 N., R. 26 E.,
Sec. 3, Lots 3, 4, and 5, NE¼SW¼.
T. 30 N., R. 26 E.,
Sec. 24, Lot 6;
Sec. 25, Lots 3 and 4;
Sec. 34, Lot 4;
Sec. 35, Lots 4, 5, 6 and 7.

T. 30 N., R. 27 E.,
Sec. 19, Lot 7;
Sec. 20, Lot 5;
Sec. 27, Lot 4;
Sec. 28, Lots 2, 3, 4, 5 and 6, SE¼NW¼, NW¼ SE¼, SE¼SE¼,
Sec. 29, Lots 1 and 2, NE¼NW¼,
Sec. 34, Lots 3, 4, 5 and 6, SW¼NW¼, NE¼SW¼, SW¼SE¼,
Sec. 35, Lot 5.

The total area aggregates approximately 2,176.54 acres.

The proposed withdrawal of the above-described lands will be made subject to powersite withdrawals, Classification Nos. 129, 349, and 382.

J. M. HONEYWELL,
State Supervisor

[F R. Doc. 55-5215; Filed, June 29, 1955; 8:48 a. m.]

SOUTH DAKOTA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

The Department of Agriculture, Forest Service, has filed an application, Serial No. Montana 018514 (SD) for the withdrawal of the lands described below, from all forms of appropriation. The applicant desires the land for the purpose of protecting important prehistoric carvings in furtherance of the Antiquities Act of June 8, 1906 (34 Stat. 225; 16 U. S. C. 431)

For a period of thirty days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 1245 North 29th Street, Billings, Montana.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

BLACK HILLS MERIDIAN

T. 7 S., R. 3 E.,
Sec. 30: W½.
T. 7 S., R. 2 E.,
Sec. 25: E½.

The area contains 640 acres.

FRANCIS A. RIORDAN,
Acting State Supervisor

JUNE 24, 1955.

[F. R. Doc. 55-5211; Filed, June 29, 1955; 8:47 a. m.]

OREGON

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JUNE 20, 1955.

The Fish and Wildlife Service, Department of the Interior, has filed an application Serial No. Oregon 03888, for the withdrawal of the lands described below, from appropriation under the public land laws, including the general mining laws but excepting the mineral leasing laws.

The applicant desires the land for permanent public access to the Ochoco Reservoir for fishing and, as well, an area for parking and camping purposes.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, P O. Box 3861, Portland 8, Oregon.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

WILLAMETTE MERIDIAN, OREGON

T. 14 S., R. 17 E.,
Sec. 32: SE¼SE¼.

Total area, 40 acres.

VIRGIL T. HEATH,
State Supervisor

[F. R. Doc. 55-5214; Filed, June 29, 1955; 8:47 a. m.]

OREGON

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS; CORRECTION

JUNE 23, 1955.

Notice of proposed withdrawal and reservation of lands in connection with the application of the Bureau of Land Management, Department of the Interior, Serial No. Oregon 03791, published in the FEDERAL REGISTER of May 12, 1955 (F R. Doc. 55-3834, 20 F R. 3237) as corrected by publication in the FEDERAL REGISTER of June 10, 1955 (F R. Doc. 55-4623; 20 F. R. 4094), is corrected by omitting therefrom, T. 33 S., R. 9 W., and inserting in lieu thereof, T. 34 S., R. 9 W

VIRGIL T. HEATH,
State Supervisor

[F. R. Doc. 55-5210; Filed, June 29, 1955; 8:46 a. m.]

MICHIGAN

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JUNE 24, 1955.

United States Department of the Army has filed an application, Serial No. BLM 040204, for the withdrawal of the lands described below, from all forms of appropriation under the public-land laws. The applicant desires the land for expansion of the K. I. Sawyer Air Force Base.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Eastern States Office, Washington 25, D. C.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MICHIGAN MERIDIAN

T. 46 N., R. 25 W.,
Sec. 36, NE¼.

C. R. DREXILIUS,
Supervisor,
Eastern States Office.

[F. R. Doc. 55-5212; Filed, June 29, 1955; 8:47 a. m.]

IDAHO

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JUNE 21, 1955.

The United States Department of Agriculture has filed an application, Serial No. Idaho 05295, for the withdrawal of the lands described below, from all forms of appropriation under the General Mining Laws, subject to existing valid claims. The applicant desires the land for forest development roads and/or highways, within the Cache National Forest.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

BOISE MERIDIAN, IDAHO

FRANKLIN BASIN, FOREST DEVELOPMENT ROAD, ROADSIDE ZONE

A strip of land 100 feet on each side of of the center line of Franklin Basin Idaho Road through the following legal subdivisions:

Unsurveyed, but when surveyed will probably be—

T. 15 S., R. 41 E.,
Sec. 2, N½SW¼, SE¼SW¼,
Sec. 3, N½S½,
Sec. 4, S½SW¼,
Sec. 5, S½S½,
Sec. 8, W½NW¼,
Sec. 11, NE¼NW¼, W½NE¼, NW¼SE¼, E½SW¼,
Sec. 14, NE¼NW¼, SW¼NE¼, W½SE¼;
Sec. 23, W½NE¼, SE¼NE¼, NE¼SE¼,
Sec. 24) W½SW¼, SE¼SW¼, SE¼SE¼,
Sec. 25, E½NW¼, SW¼NW¼, W½SW¼,
Sec. 35, E½NE¼,
Sec. 36, SW¼NW¼, N½SW¼, SE¼SW¼.
T. 16 S., R. 41 E.,
Sec. 1, NE¼NW¼, W½NE¼, NW¼SW¼ SE¼, S½SW¼SE¼,
Sec. 12, W½NE¼, N½SE¼, SE¼SE¼.
T. 16 S., R 42 E.,
Sec. 18, W½NW¼, N½SW¼, SE¼SW¼,
Sec. 19, W½W½,
Sec. 30, W½W½.

SAINT CHARLES CANYON, FOREST DEVELOPMENT ROAD, ROADSIDE ZONE

A strip of land 200 feet on each side of the center line of Saint Charles Canyon Road through the following legal subdivisions:

T. 15 S., R. 42 E.,
Sec. 23, SE¼SW¼, S½SE¼, NE¼SE¼,
Sec. 24, N½SW¼, SE¼NW¼, S½NE¼,
Sec. 27, NE¼SE¼.

T. 15 S., R. 43 E.,
Sec. 17, SE¼SW¼, Lots 1, 2, NE¼SE¼,
Sec. 19, Lots 1, 2, 3, 4, NE¼NW¼, N½NE¼,
Sec. 20, N½NW¼.

ST. CHARLES—GREEN CANYON, FOREST DEVELOPMENT ROAD, ROADSIDE ZONE

A strip of land 100 feet on each side of the center line of St. Charles—Green Canyon Road through the following legal subdivisions:

T. 15 S., R. 42 E.,
Sec. 25, N½SE¼, N½SW¼, SW¼SW¼,
Sec. 26, SE¼SE¼,
Sec. 34, SE¼NE¼,
Sec. 35, N½NE¼, NE¼NW¼, S½NW¼.
T. 15 S., R. 43 E.,
Sec. 29, NW¼NE¼, N½NW¼,
Sec. 30, N½NE¼, NE¼NW¼, S½NW¼, Lots 5, 6.
T. 16 S., R. 42 E.,
Sec. 2, W½W½,
Sec. 11, W½W½,
Sec. 14, W½W½,
Sec. 22, S½NE¼, NW¼SE¼, E½SE¼,
Sec. 23, W½NW¼, SW¼SW¼,
Sec. 26, N½NW¼, SE¼NW¼, E½SW¼.

MEADOW VIEW, FOREST DEVELOPMENT ROAD, ROADSIDE ROAD

A strip of land 200 feet on each side of the center line of Meadow View Road through the following legal subdivisions:

Unsurveyed, but what will probably be when surveyed—

T. 10 S., R. 42 E.,
Sec. 29, S½NE¼SW¼, SE¼SW¼,
Sec. 32, E½NW¼, W½SW¼.
T. 11 S., R. 41 E.,
Sec. 27, W½NW¼, SE¼NW¼, E½SW¼,
Sec. 34, NE¼NW¼, N½NE¼, SE¼NW¼,
Sec. 35, S½N½,
Sec. 36, SW¼NW¼, N½SW¼, W½SE¼, SE¼SE¼.

Unsurveyed, but what will probably be when surveyed—

T. 11 S., R. 42 E.,
Sec. 5, W½NW¼, SW¼,
Sec. 7, E½SE¼,
Sec. 8, W½W½,
Sec. 17, W½W½,
Sec. 20, N½NW¼, SE¼NE¼, NE¼SW¼, W½SE¼,
Sec. 29, W½NE¼, SE¼NE¼, E½SE¼,
Sec. 32, NE¼NE¼,
Sec. 33, W½NW¼, SE¼NW¼, NE¼SW¼, W½SE¼.
T. 12 S., R. 41 E.,
Sec. 1 (unsurveyed, but what will probably be when surveyed) NE¼NE¼.
T. 12 S., R. 42 E.,
Sec. 4, Lot 2, SW¼NE¼, W½SE¼;
Sec. 6, Lot 4, SE¼NW¼, SW¼NE¼, N½SE¼, SE¼SE¼,
Sec. 8, NW¼NW¼, SE¼NW¼, S½NE¼,
Sec. 9, S½NW¼, NE¼NW¼, W½NE¼, SE¼NE¼,
Sec. 10, S½N½,
Sec. 11, SW¼NW¼, N½SW¼, N½SE¼,
Sec. 12, W½NW¼SW¼, E½W½SE¼.

STRAWBERRY-SHARON, FOREST HIGHWAY, ROADSIDE ZONE

A strip of land 200 feet on each side of the center line of Strewberry-Sharon Forest Highway through the following legal subdivisions:

Unsurveyed, but what will probably be when surveyed—

T. 12 S., R. 41 E.,
Sec. 36, E½SW¼, S½NE¼, NE¼NE¼.
T. 12 S., R. 42 E.,
Sec. 20, S½SW¼, W½SE¼, NE¼SE¼,
Sec. 21, N½NE¼, NW¼SW¼;
Sec. 22, N½N½,
Sec. 23, N½N½,
Sec. 29, NW¼NW¼,
Sec. 30, Lots 3, 4, SE¼NW¼, S½NE¼, NE¼NE¼,
Sec. 31, Lot 1.

Unsurveyed, but what will probably be when surveyed—

T. 13 S., R. 41 E.,
Sec. 1, NW¼SW¼, W½NW¼, NE¼NW¼,
Sec. 2, E½SE¼,
Sec. 3, SE¼SW¼, SW¼SE¼,
Sec. 9, W½SE¼, S½NE¼,
Sec. 10, N½N½,
Sec. 11, W½NW¼, SE¼NW¼, NW¼NE¼, N½SW¼NE¼.

J. R. PENNY,
State Supervisor.

[F. R. Doc. 55-5213; Filed, June 29, 1955; 8:47 a. m.]

Office of the Secretary

APPLICATIONS FROM OCCUPANTS ON CERTAIN PUBLIC LANDS

1. Notice is hereby given that the Manager, Land Office, Bureau of Land Management, 335 Federal Building, Post Office Box 777, Salt Lake City, Utah, will accept applications under the act of August 31, 1954 (68 Stat. A270) from occupants on the public lands in Sections 9, 10, 15, 16, 21, 22, 27, and 28, Township 8 North, Range 2 West, Salt Lake Meridian, Utah.

2. Applications must be submitted, in duplicate, to the above-mentioned official prior to August 31, 1955. No particular form of application is required but applications must be typewritten or in legible handwriting and must contain the following information: [1]

(A) The name and post office address of the applicant.

(B) The legal description or metes and bounds description and the acreage of the public lands claimed.

(C) A showing that the applicant or his predecessors in interest were bona fide occupants of the lands claimed and had adverse possession for seven years prior to the approval of the plat of survey of the lands. Upon review of the showing, further documentary or duly corroborated evidence may be required by the Manager, which evidence will be returned to the applicant.

(D) The names and post office addresses of any adverse claimants, settlers, or occupants of the public lands claimed.

(E) The names and post office addresses of at least two disinterested persons having knowledge of the facts relating to the applicant's claim.

(F) A citation of the act of August 31, 1954 (68 Stat. A270), under which the application is made.

3. Each applicant will be required to publish once a week for five consecutive weeks, at his expense, in a designated newspaper and in a designated form, a notice allowing all persons claiming the land adversely to the claimant to file with the Manager their objections to issuance of patent under the application. A protestant must serve on the applicant a copy of the objections and furnish evidence of such service. The applicant must file a statement of the publisher, accompanied by a copy of the published notice, showing that publication has been had for the required time.

4. Occupants entitled to patents under the act will be required, within 30 days after the request therefor, to pay the appraised price of the lands as of the date of appraisal. The appraisal will exclude any increased value resulting from the development or improvement of the lands by the occupant or his predecessors in interest and will take into consideration and give full effect to the equities of the occupant.

5. Patents issued to occupants will contain a reservation granting to the United States the right to repurchase the lands under the conditions specified in section 4 of the act.

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

JUNE 24, 1955.

[F. R. Doc. 55-5216; Filed, June 29, 1955; 8:48 a. m.]

[1] 18 U. S. C. 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

DEPARTMENT OF COMMERCE

Civil Aeronautics Administration

[Amdt. 7]

ORGANIZATION AND FUNCTIONS

CHANGE IN ADDRESS OF AIRPORT DISTRICT OFFICE

In accordance with the public information requirements of the Administrative Procedure Act, section 21 (b) of the description of Organization and Functions of the Civil Aeronautics Administration (19 F. R. 2100) is hereby amended to include the following change in the address of an Airport District Office:

1. Region 1, is amended by substituting "Columbus, Ohio, Administration Building, Port Columbus Airport—" for "Columbus, Ohio, 409 Trautman Building—"

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 55-5202; Filed, June 29, 1955; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MICHIGAN

DESIGNATION OF ADDITIONAL AREAS FOR PRODUCTION EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1848a-2 (a)) as amended, it is determined that in the following named additional counties in the State of Michigan a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

STATE OF MICHIGAN

Allegan.	Manistee.
Benzie.	Mason.
Cass.	Muskegon.
Ionia.	Newaygo.
Kalamazoo.	Oceana.
Kent.	Ottawa.

Pursuant to the authority as set forth above, such loans will not be made in the above-named counties in the State of Michigan after June 30, 1956, except to borrowers who previously received such assistance.

Done at Washington, D. C., this 24th day of June 1955.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 55-5229; Filed, June 29, 1955; 8:50 a. m.]

DEPARTMENT OF LABOR

Office of the Secretary

CALIFORNIA

NOTICE OF OPPORTUNITY FOR HEARING TO CALIFORNIA DEPARTMENT OF EMPLOYMENT; AMENDMENT

Amended Notice of Opportunity for Hearing to the California Department of Employment pursuant to section 3304 (c) of the Internal Revenue Code.

The Notice of Opportunity for Hearing to the California Department of Employment published in the FEDERAL REGISTER on June 15, 1955 (20 F R. 4193) is amended,

(1) By changing the date of the hearing to the 1st day of August 1955; and

(2) By changing the place of the hearing to California Public Utilities Commission Hearing Room No. 367 in the State Building at 350 McCallister Street, San Francisco, California; and

(3) By striking out paragraph numbered 13 and inserting in lieu thereof the following:

Any brief on the issues herein shall be filed no later than ten (10) days after the transcript of the hearing is available. All briefs shall be filed in the Office of the Chief Hearing Examiner.

In all other respects the aforementioned notice remains unchanged.

JAMES P MITCHELL,
Secretary of Labor

JUNE 24, 1955.

[F. R. Doc. 55-5244; Filed, June 29, 1955; 8:52 a. m.]

ATOMIC ENERGY COMMISSION

URANIUM 233

SPECIAL NUCLEAR MATERIAL, NOTICE OF DETERMINATION

Pursuant to section 11 t. and section 51 of the Atomic Energy Act of 1954 (68 Stat. 924, 929) notice is hereby given that the Atomic Energy Commission has determined that uranium 233 is special nuclear material.

The Commission's determination that uranium 233 is special nuclear material, together with the assent of the President to said determination, was submitted to the Joint Committee on Atomic Energy on April 12, 1955.

This notice shall be effective immediately upon publication in the FEDERAL REGISTER.

Dated at Washington, D. C., this 15th day of June 1955.

K. E. FIELDS,
General Manager

[F. R. Doc. 55-5200; Filed, June 29, 1955; 8:45 a. m.]

FEDERAL CIVIL DEFENSE ADMINISTRATION

SECRETARY OF AGRICULTURE OR HIS DESIGNEE

FURTHER AMENDING DELEGATION OF AUTHORITY

1. Pursuant to the authority vested in me by Public Law 875, 81st Congress, 2d Session, as amended, and section 5 of Executive Order 10427, dated January 16, 1953, the delegation of authority of July 31, 1953, to the Secretary of Agriculture, as amended (18 F R. 4609; 19 F R. 2148; 19 F R. 5364) is further amended as follows:

At the end of paragraph 1, strike the period, insert a comma, and add "or for the purpose of rendering assistance pursuant to the allocation of funds of April 7, 1955."

2. This amendment shall become effective as of April 7, 1955.

VAL PETERSON,
Federal Administrator
Civil Defense Administration.

Consented to:

TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 55-5219; Filed, June 29, 1955; 8:48 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11169-11173; FCC 55M-572]

TRIAD TELEVISION CORP. ET AL.

ORDER CONTINUING HEARING

In re applications of Triad Television Corporation, Parma, Michigan, Docket No. 11169, File No. BPCT-1846; Booth Radio & Television Stations, Inc., Parma, Michigan, Docket No. 11170, File No. BPCT-1866; Television Corporation of Michigan, Inc., Onondaga, Michigan, Docket No. 11171, File No. BPCT-1870; Jackson Broadcasting & Television Corporation. Parma, Michigan, Docket No. 11172, File No. BPCT-1871, Michigan State Board of Agriculture, Onondaga, Michigan, Docket No. 11173, File No. BPCT-1885; for construction permits for new television stations (Channel 10)

The Hearing Examiner having under consideration agreement of counsel regarding hearing date for the above-entitled proceeding:

It is ordered, This 24th day of June 1955, that the hearing now scheduled for July 18, 1955, is continued until July 19, 1955, at 10:00 a. m.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary,

[F. R. Doc. 55-5247; Filed, June 29, 1955; 8:53 a. m.]

[Docket No. 11267; FCC 55-709]

DAVID JOSEPH LEWIS

ORDER AMENDING ISSUES

In the matter of David Joseph Lewis, 1011 Davis Street, Elmira, New York, Docket No. 11267; suspension of restricted radiotelephone operator permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 23d day of June 1955;

The Commission having under consideration a joint motion filed April 12, 1955, by Chief, Field Engineering and Monitoring Bureau and Respondent David Joseph Lewis to modify the issues in the above-entitled proceeding;

It appearing, that on February 8, 1955, the above-entitled matter was designated for hearing to determine (1) whether David J. Lewis has obtained by fraudulent means an operator's license, and (2) if the licensee did obtain a license by fraudulent means, to determine whether the facts or circumstances in connection therewith would warrant any change in the Commission's order of suspension;

It further appearing, that Mr. Lewis has informed the Commission by affidavit that he did not intentionally misrepresent information in his application to the Commission; and that in view of the information contained in such affidavit, it is agreed between the respondent, David Joseph Lewis, and the Chief, Field Engineering and Monitoring Bureau, that the issues should be modified to eliminate the question of fraudulent concealment and in place thereof, to focus attention on whether respondent violated a regulation of the Commission by improperly completing his application form, and if he did, the circumstances surrounding such violation;

It further appearing, that in view of the foregoing the issues set forth in the Commission's Order of February 8, 1955, should be deleted and the new issues substituted therefor;

Accordingly, it is ordered, That the joint motion by Chief, Field Engineering and Monitoring Bureau, and respondent David Joseph Lewis to modify issues filed April 12, 1955 is granted; the issues designated in the Commission's order of February 8, 1955 are deleted, and the following issues substituted:

(1) To determine whether David Joseph Lewis failed to comply with a lawful regulation of the Commission by failing to report on his application for a restricted radiotelephone operator permit his conviction for a crime, the penalty for which was imprisonment for more than one year;

(2) To determine the circumstances under which David Joseph Lewis failed to comply with a lawful regulation of the Commission; and

(3) To determine whether in the light of the facts and circumstances adduced under the preceding issues whether any change in the Commission's Order of Suspension is warranted.

Released: June 27, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-5248; Filed, June 29, 1955; 8:53 a. m.]

[Docket No. 11300; FCC 55M-573]

ALLEGHENY-KISKI BROADCASTING CO. (WKPA)

FIRST STATEMENT CONCERNING PRE-HEARING CONFERENCES AND ORDER CONTINUING HEARING

In re application of Allegheny-Kiski Broadcasting Co. (WKPA) New Kensington, Pennsylvania, Docket No. 11300, File No. BP-9546; for construction permit.

1. The first pre-hearing conference was held herein on June 24, 1955. All parties were represented by counsel.

2. Agreements were reached among the parties and stated on the record, as reflected in the transcript which is incorporated herein by reference. Such agreements are found to be acceptable and approved by the Hearing Examiner.

It is ordered, This 24th day of June 1955, that the foregoing agreements and requirements shall govern the course of the proceeding to the extent indicated, unless modified by the Examiner for cause or by the Commission upon review of the Examiner's ruling, and the hearing herein now scheduled for July 11, 1955, is continued until July 18, 1955, at 10:00 a. m.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-5249; Filed, June 29, 1955; 8:53 a. m.]

[Docket No. 11360; FCC 55M-571]

MOUNTAIN STATE BROADCASTING CO., INC.

ORDER CONTINUING PREHEARING CONFERENCE

In re application of Mountain State Broadcasting Co., Inc., Morgantown, West Virginia, Docket No. 11360, File No. BP-9471, for construction permit.

The Hearing Examiner having under consideration a motion filed June 23, 1955, by respondent herein, requesting that the prehearing conference now scheduled for June 28, 1955, be continued until 2:00 p. m., June 30, 1955, and

It appearing that good cause has been shown for the motion and that the other parties have agreed to a grant of the motion;

It is ordered, This 24th day of June 1955, that the motion is granted and that the prehearing conference is rescheduled for 2:00 p. m., June 30, 1955, at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-5250; Filed, June 29, 1955; 8:53 a. m.]

[Docket No. 11411; FCC 55-719]

SOUTHEASTERN ENTERPRISES (WCLE)

ORDER RESCHEDULING ORAL ARGUMENT

In re application of R. B. Helms, Carl J. Hoskins and Jack T. Helms, d/b as Southeastern Enterprises (WCLE) Cleveland, Tennessee, Docket No. 11411, File No. BP-9629; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of June 1955;

The Commission having under consideration its Memorandum Opinion and Order released on June 10, 1955, designating the above-entitled matter for hearing by oral argument before the Commission en banc on July 7, 1955, to commence at 10:00 a. m.,

It appearing, that the Commission will not be able to convene on the said date of July 7, 1955, until 10:30 a. m. and therefore the said hearing cannot commence at the time originally specified;

It is ordered, That the hearing by oral argument before the Commission en banc in the above-entitled proceeding shall commence at 10:30 a. m. on the date and at the place previously specified.

Released: June 27, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-5251; Filed, June 29, 1955; 8:53 a. m.]

[Docket Nos. 11423—11426; FCC 55-694]

SAMUEL ELMAN ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Samuel Elman, Hartford, Connecticut, Docket No. 11423, File No. BP-9170; John Deme d/b as, Manchester Broadcasting Co., Manchester, Connecticut, Docket No. 11424, File No. BP-9176. Regional Broadcasting Company, East Hartford, Connecticut, Docket No. 11425, File No. BP-9399; Brothers Broadcasting Corporation, Hartford, Connecticut, Docket No. 11426, File No. BP-9631, for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 22d day of June 1955;

The Commission having under consideration the above-entitled applications of Samuel Elman (File No. BP-9170) Regional Broadcasting Company (File No. BP-9399) and Brothers Broadcasting Corporation (File No. BP-9631) each for a construction permit for a new standard broadcast station to operate on 1230 kilocycles with a power of 250 watts, unlimited time, at Hartford, East Hartford and Hartford, Connecticut, respectively, and of John Deme, doing business as Manchester Broadcasting Company (File No. BP-9176) for a construction permit for a new standard broadcast station to operate on 1230 kilocycles with a power of 100 watts, unlimited time, at Manchester, Connecticut;

It appearing, that the applicants are legally, technically, financially and otherwise qualified, except as may appear from the issues specified below, to operate their proposed stations but that the subject proposals would result in mutually destructive interference; and

It further appearing, that the applications of Samuel Elman, Regional Broadcasting Co. and Brothers Broadcasting Corporation would involve interference with Station WHUC, Hudson, New York; and

It further appearing, that none of the subject proposals would provide adequate coverage of the city sought to be served; and

It further appearing, that the proposal of Samuel Elman would not be in compliance with the Commission's Standards of Good Engineering with respect to transmitter site, antenna system and population residing within the 1000 mv/m contour; and

It further appearing, that the proposal of Brothers Broadcasting Corporation would not be in compliance with the Commission's Standards of Good Engineering with respect to transmitter site and that a determination has not been made yet whether the proposed antenna system would constitute a hazard to air navigation; and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicants were advised by letters dated August 23, December 2, 1954, and February 9, 1955, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of any of the applications would be in the public interest; and

It further appearing, that timely replies have been received from all the subject applicants; and

It further appearing, that the Commission, after consideration of the replies, is of the opinion that a hearing is necessary·

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and population which would receive primary service from each of the proposed stations, and the availability of other primary service to such areas and populations.

2. To determine whether the proposed operations of Samuel Elman, the Regional Broadcasting Company and

Brothers Broadcasting Corporation will involve interference with Station WHUC, Hudson, New York, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to the WHUC interference areas.

3. To determine, in addition to the interference questions raised in Issue 2, whether any of the subject proposed operations would involve interference with any other existing station, and, if so, the nature and extent of such interference.

4. To determine whether the antenna system proposed by Brothers Broadcasting Corporation would constitute a hazard to air navigation.

5. To determine whether the antenna system proposed by Samuel Elman would produce the minimum radiation efficiency required by § 3.45 of the Commission's rules and the Standards of Good Engineering Practice.

6. To determine whether the operation proposed by Samuel Elman would be in compliance with § 3.24 (g) of the Commission's rules with regard to population within the 1 mv/m contour.

7. To determine whether the proposed operations of Samuel Elman, Manchester Broadcasting Company, Regional Broadcasting Company and Brothers Broadcasting Corporation will comply with the Commission's Standards of Good Engineering Practice with particular reference to coverage of the various cities sought to be served.

8. To determine, in light of section 307 (b) of the Communications Act of 1934, as amended, which of the applications, if granted, would best provide a fair, efficient and equitable distribution of radio service.

9. To determine which of the operations proposed in the above-entitled applications would best serve the public interest in the light of the evidence adduced under the foregoing issues and record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each of the above-named applicants to own and operate the proposed stations.

(b) The proposals of each of the above-named applicants with respect to the management and operation of the proposed stations.

(c) The programming service proposed in each of the above-mentioned applications.

10. To determine in light of the evidence adduced pursuant to the foregoing issues which, if any, of the applications should be granted.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

It is further ordered, That the Colgren Broadcasting Company, licensee of Station WHUC, Hudson, New York, is made a party to the proceeding.

It is further ordered, That in the event the application of John Deme, d/b as Manchester Broadcasting Company, is granted in the above-described hearing the construction permit shall contain the following condition: Submission by the permittee of measurements made in accordance with § 3.47 of the rules to prove compliance with the requirements of section 12 of the Standards.

Released: June 27, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary,

[F. R. Doc. 55-5252; Filed, June 29, 1955; 8:54 a. m.]

[Docket No. 11427; FCC 55-695]

BI-STONE BROADCASTING CO.

ORDER DESIGNATING APPLICATION FOR HEARING OF STATED ISSUES

In re application of J. B. McNutt, Jr., tr/as Bi-Stone Broadcasting Company, Mexia, Texas, Docket No. 11427, File No. BP-9644; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 22d day of June 1955;

The Commission having under consideration the above-entitled application for a construction permit for a new standard broadcast station to operate on 1590 kilocycles with a power of 500 watts, daytime only, at Mexia, Texas; and

It appearing, that the applicant is legally, technically, financially and otherwise qualified, except as may appear from the issues specified below, to operate the proposed station, but that the application may involve interference with Station KERC, Eastland, Texas (1590 kc, 500 w, Day) and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicant was advised by letter dated April 13, 1955, of the aforementioned deficiency and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing, that a timely reply was received from the applicant indicating that it would appear at a hearing on its subject application; and

It further appearing, that in a letter filed on April 28, 1955, KERC requested that the subject application be designated for hearing and that KERC be made a party to the hearing; and

It further appearing, that the Commission, after consideration of these replies is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from the operation of the subject proposed station, and the availability of other primary service to such areas and populations.

2. To determine whether the operation of the proposed station would involve objectionable interference with Station KERC, Eastland, Texas, or any other existing station, and, if so, the nature and extent thereof, the areas and population affected thereby, the availability of other primary service to such areas and populations.

3. To determine whether, in light of the evidence adduced under the foregoing issues, a grant of the application would be in the public interest.

It is further ordered, That Tri-Cities Broadcasting Company of Eastland County, Texas, licensee of Station KERC, Eastland, Texas, is made a party to the proceeding.

Released: June 27, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-5253; Filed, June 29, 1955; 8:54 a. m.]

[Docket Nos. 11428-11430; FCC 55-696]

DELSEA BROADCASTERS ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Mortimer Hendrickson, Vivian Eliza Hendrickson and John Thomas Jones, Jr., a partnership, d/b as The Delsea Broadcasters, Pitman-Glassboro, New Jersey, Docket No. 11428, File No. BP-9431, James R. Reese, Jr., Chambersburg, Pennsylvania, Docket No. 11429, File No. BP-9612; Richard Field Lewis, Jr., Fisher, West Virginia, Docket No. 11430, Filed No. BP-9699; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 22d day of June 1955;

The Commission having under consideration the above-entitled applications of The Delsea Broadcasters, James R. Reese, Jr., and Richard Field Lewis, Jr., each for a construction permit for a new standard broadcast station to operate on 690 kilocycles, daytime only, at Pitman-Glassboro, New Jersey, with a power of 250 watts and directional antenna, at Chambersburg, Pennsylvania, with a power of 250 watts, and at Fisher, West Virginia, with a power of 500 watts, respectively; and

It appearing, that each of the applicants is legally, technically, financially and otherwise qualified, except as may appear from the issues specified below, to operate its proposed station, but that operation of both stations as proposed by James R. Reese, Jr., and Richard Field Lewis, Jr., would result in mutually prohibitive interference; that the application of The Delsea Broadcasters would involve interference with the proposed operation of James R. Reese, Jr., and Stations WOR, New York City, New York; WCBM, Baltimore, Maryland; and

WNNT, Warsaw, Virginia, and specifies a transmitter site which is not satisfactory and does not make the showing required under Section 3.30 for dual city operation; that the application of James R. Reese, Jr., would involve interference with Station WCBM; and that the application of Richard Field Lewis, Jr., would involve interference with Station WNNT, Warsaw, Virginia, and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicants were advised by letter dated April 22, 1955, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of any of the applications would be in the public interest; and

It further appearing, that each of the subject applicants filed a timely reply to the Commission's above-referenced letter; and

It further appearing, that in a reply dated May 21, 1955, The Delsea Broadcasters requested that its application be considered for Glassboro instead of Pitman-Glassboro, New Jersey, but the request was not in proper form to so amend the application; and

It further appearing, that Stations WOR, WCBM, and WNNT, in timely filed letters opposed a grant of the applications which would cause interference to their respective stations; and

It further appearing, that the Commission, after consideration of the above replies and oppositions, is of the opinion that a hearing is necessary·

It is ordered, That, pursuant to section 309 (c) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each of the subject proposed operations, and the availability of other primary service to such areas and populations.

2. To determine whether the operation proposed by The Delsea Broadcasters would involve objectionable interference with Stations WOR, New York City, New York; WCBM, Baltimore, Maryland; and WNNT, Warsaw, Virginia; or any other existing standard broadcast station, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether the operation proposed by James R. Reese, Jr. would involve objectionable interference with Station WCBM, Baltimore, Maryland, or any other existing standard broadcast station, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

4. To determine whether the operation proposed by Richard Field Lewis, Jr. would involve objectionable interference with Station WNNT, Warsaw, Virginia, or any other existing standard broadcast station, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

5. To determine whether the installation and operation of the station proposed by The Delsea Broadcasters would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations with particular reference to whether the transmitter location is satisfactory.

6. To determine whether the dual city operation proposed by The Delsea Broadcasters would be in compliance with the provisions of § 3.30 of the Commission's rules.

7. To determine in light of section 307 (b) of the Communications Act of 1934, as amended, which of the applications, if granted, would better provide a fair, efficient and equitable distribution of radio service.

8. To determine, in the light of the evidence adduced with respect to the foregoing issues, which, if either, of the applications should be granted.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether funds available to the applicant will give reasonable assurance that the proposal set forth in the application will be effectuated.

It is further ordered, That General Teleradio, Inc., the Baltimore Broadcasting Corporation; and The Northern Neck and Tidewater Broadcasting Company; licensees of Stations WOR, WCBM, and WNNT, respectively, are made parties to the proceeding.

Released: June 27, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-5254; Filed, June 29, 1955; 8:54 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6238]

BURKE-DIVIDE ELECTRIC CO-OPERATIVE, INC.

NOTICE OF ORDER TERMINATING AUTHORIZATION TO TRANSMIT ELECTRIC ENERGY FROM UNITED STATES TO CANADA

JUNE 24, 1955.

Notice is hereby given that on June 2, 1955, the Federal Power Commission issued its order adopted May 31, 1955, terminating authorization to transmit electric energy from the United States to Canada, and the Presidential Permit in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5231; Filed, June 29, 1955; 8:50 a. m.]

[Docket No. E-6623]

GULF STATES UTILITIES CO.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF SECURITIES

JUNE 24, 1955.

Notice is hereby given that on June 3, 1955, the Federal Power Commission issued its order adopted June 2, 1955, authorizing issuance of securities in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5232; Filed, June 29, 1955; 8:50 a. m.]

[Docket No. G-2460]

NORTHERN NATURAL GAS CO.

NOTICE OF DATE OF HEARING

JUNE 23, 1955.

On May 2, 1955, Northern Natural Gas Company filed an application for amendment of the order issued August 27, 1955, issuing a certificate of public convenience and necessity under section 7 (c) of the Natural Gas Act pertaining to a proposed storage reservoir near Redfield, Iowa. Notice of said application was given to interested parties and published in the FEDERAL REGISTER on May 21, 1955 (20 F. R. 3572)

Take notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on July 13, 1955, at 10:00 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented in the aforesaid application of Northern Natural Gas Company.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5235; Filed, June 29, 1955; 8:51 a. m.]

[Docket No. G-4505]

BEL OIL CORP.

NOTICE OF CONTINUANCE OF HEARING

JUNE 23, 1955.

Upon consideration of the motion of Bel Oil Corporation, filed June 10, 1955, for continuance of the hearing now scheduled for July 6, 1955, in the above-designated matter;

The hearing now scheduled for July 6, 1955, is hereby postponed to July 25, 1955, at 10:00 a. m., e. d. s. t., in the Commission's Hearing Room, 441 G Street NW., Washington, D. C.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5236; Filed, June 29, 1955; 8:51 a. m.]

[Docket No. G-5510]

FOREST OIL CORP.

NOTICE OF CONTINUANCE OF HEARING

JUNE 23, 1955.

Upon consideration of the motion of Forest Oil Corporation, filed June 14, 1955, for continuance of the hearing now scheduled for July 7, 1955, in the above-designated matter·

The hearing now scheduled for July 7, 1955, is hereby postponed to July 27, 1955, at 10:00 a. m., e. d. s. t., in the Commission's Hearing Room, 441 G Street NW., Washington, D. C.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F R. Doc. 55-5237; Filed, June 29, 1955; 8:51 a. m.]

[Docket No. G-6279]

MARACAIBO OIL EXPLORATION CORP.

NOTICE OF CONTINUANCE OF HEARING

JUNE 23, 1955.

Upon consideration of the motion of Maracaibo Oil Exploration Corporation, filed June 15, 1955, for continuance of the hearing now scheduled for July 12, 1955, in the above-designated matter;

The hearing now scheduled for July 12, 1955, is hereby postponed to July 29, 1955, at 10:00 a. m., e. d. s. t., in the Commission's Hearing Room, 441 G Street NW., Washington, D. C.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-5238; Filed, June 29, 1955; 8:51 a. m.]

[Docket No. G-8765]

JULES G. FRANKS AND JOHN K. KELSAY

NOTICE OF APPLICATION AND DATE OF HEARING

JUNE 24, 1955.

Take notice that Jules G. Franks and John K. Kelsay, Agents (Applicants) whose address is 123 South Broad Street, Philadelphia, Pennsylvania, filed an application on April 15, 1955, for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to sell natural gas produced from Bull and Moyers lease in Salt Lick District, Braxton County, West Virginia, to The Equitable Gas Company at 20 cents per Mcf, for transportation in interstate commerce for resale. The rate of delivery will be 500 Mcf per day.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on July 15, 1955, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 11, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-5239; Filed, June 29, 1955; 8:51 a. m.]

[Docket Nos. G-8772, G-8773, G-8774]

CITY OF CLARENDON, ARKANSAS, ET AL.

NOTICE OF APPLICATIONS

JUNE 23, 1955.

In the matters of City of Clarendon, Arkansas, Docket No. G-8772; Town of Holly Grove, Arkansas, Docket No. G-8773; City of Marvell, Arkansas, Docket No. G-8774.

Take notice that the City of Clarendon, Arkansas, the Town of Holly Grove, Arkansas, and the City of Marvell, Arkansas (Applicants) municipalities organized under the laws of Arkansas, each filed on April 19, 1955, an application pursuant to section 7 (a) of the Natural Gas Act for an order directing Texas Gas Transmission Company (Texas Gas) to establish physical connection of its transportation facilities with the facilities of the City of Marvell, and to sell natural gas to Applicants for local distribution to the public in the municipalities of Clarendon, Holly Grove, and Marvell, respectively, and in the areas adjacent thereto.

The City of Marvell proposes to interconnect its facilities with those of Texas Gas at a point just south of Helena, Arkansas. Delivery of gas is to be made to the above-named communities through 52.8 miles of 6-inch, 5-inch and 4-inch pipelines which the Cities of Marvell and Clarendon propose to construct extending to Marvell and then on to Clarendon. The three natural gas distribution systems proposed to be constructed by each of the Applicants herein will be connected to these lines to receive the gas transported from Texas Gas system.

The estimated annual and peak day requirements of the Applicants for the first and third years of operation are stated to be as follows:

City	Year	Annual Mcf	Peak day demand Mcf
Clarendon	1	57,460	185-3
	3	69,811	684-1
Holly Grove	1	18,875	177-0
	3	26,241	229-3
Marvell	1	49,430	503-6
	3	69,853	640-9

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 8th day of July 1955. The applications are on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-5221; Filed, June 29, 1955; 8:49 a. m.]

[Project No. 201]

TOWN OF PETERSBURG, ALASKA

NOTICE OF ORDER FURTHER AMENDING LICENSE (MAJOR)

JUNE 24, 1955.

Notice is hereby given that on June 3, 1955, the Federal Power Commission issued its order adopted May 31, 1955, further amending license (Major) in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-5233; Filed, June 29, 1955; 8:50 a. m.]

[Project No. 2178]

TOWN OF CORDOVA, ALASKA

NOTICE OF ORDER ISSUING PRELIMINARY PERMIT

JUNE 24, 1955.

Notice is hereby given that on June 3, 1955, the Federal Power Commission issued its order adopted May 31, 1955, issuing preliminary permit in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-5234; Filed, June 29, 1955; 8:51 a. m.]

GENERAL SERVICES ADMINISTRATION

DEPARTMENT OF DEFENSE

DELEGATION OF AUTHORITY WITH RESPECT TO DISPOSAL OF REAL PROPERTY AT CARVER HEIGHTS HOUSING PROJECT, LEXINGTON PARK, MD.

1. Pursuant to authority vested in me by the provisions of the Federal Property and Administrative Services Act of 1949 (hereinafter referred to as the act) authority is hereby delegated to the Secretary of Defense to determine that 5.06 acres of land being a portion of Carver

Heights Housing Project, Lexington Park, Maryland, is not required for the needs and responsibilities of Federal agencies, and thereafter to dispose of the property by exchange or otherwise as the interest of the Government may require.

2. The authority conferred herein shall be exercised in accordance with the act and regulations issued pursuant thereto and in particular section 203 (e) of the act requiring that an explanatory statement be submitted to the appropriate Committees of Congress and a copy preserved in the file where negotiated disposal occurs. Such statement shall be submitted to the Committees at least thirty (30) days prior to consummation of any negotiated disposal, and a copy of each such statement shall be furnished this Administration.

3. Negotiated disposals shall not be made after June 30, 1955 unless Congress extends the authority contained in section 203 (e) beyond that date.

4. The authority delegated herein may be redelegated to any officer or employee of the Department of Defense.

5. This delegation of authority shall be effective as of the date hereof.

Dated: June 23, 1955.

EDMUND F. MANSURE,
Administrator

[F. R. Doc. 55-5305; Filed, June 29, 1955; 8:57 a. m.]

FEDERAL RESERVE SYSTEM

Federal Open Market Committee

RULES ON ORGANIZATION

EXECUTIVE COMMITTEE DISCONTINUED

The Rules on Organization (formerly contained in 12 CFR Part 271) have been amended by the elimination of the section pertaining to the Executive Committee which was discontinued effective June 22, 1955, as indicated in Part 270.[1]

(Sec. 8, 48 Stat. 168, as amended; 12 U. S. C. 263)

FEDERAL OPEN MARKET COMMITTEE,
WINFIELD W. RIEFLER,
Secretary.

[F. R. Doc. 55-5223; Filed, June 29, 1955; 8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-164, 59-14]

INTERNATIONAL HYDRO-ELECTRIC SYSTEM

ORDER DENYING REQUEST FOR RECONSIDERATION OF COMMISSION'S ORDER WITH RESPECT TO INTERIM ALLOWANCES

JUNE 24, 1955.

On June 17, 1955, the Commission entered its Memorandum Opinion and Order herein granting the petition of the Interim Board of Directors of International Hydro-Electric System ("IHES") filed pursuant to Rule U-63 under the Public Utility Holding Company Act of 1935 for approval of certain interim allowances to the Board and its counsel. Objections to the petition had been filed by Central Illinois Securities Corporation and Christian A. Johnson ("objectors"), shareholders of IHES, which objections we found to be without merit.

The objectors have filed an informal request for reconsideration, reiterating their objections heretofore filed. We still find no merit in them.

It is therefore ordered, That the request for reconsideration be, and hereby is, denied.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-5228; Filed, June 29, 1955; 8:50 a. m.]

[File No. 70-3369]

COLUMBIA GAS SYSTEM, INC., ET AL.

ORDER AUTHORIZING SALE OF INSTALLMENT NOTES AND COMMON STOCK BY TWO SUBSIDIARIES, AND ACQUISITION THEREOF BY PARENT

JUNE 24, 1955.

In the matter of The Columbia Gas System, Inc., The Manufacturers Light and Heat Company, Cumberland and Allegheny Gas Company et al., File No. 70-3369.

The Columbia Gas System, Inc. ("Columbia") a registered holding company, and certain of its wholly-owned subsidiaries, including Cumberland and Allegheny Gas Company ("Cumberland"), and The Manufacturers Light and Heat Company ("Manufacturers") have filed a joint application-declaration and amendments thereto pursuant to sections 6 (b) 9, 10, 12 (b), and 12 (f) of the Public Utility Holding Company Act of 1935 ("act") and Rules U-43 and U-45 thereunder, including therein, inter alia, the following proposed transactions:

Cumberland will issue and sell, and Columbia will purchase at the principal amount thereof, from time to time as required prior to March 31, 1956, not to exceed $1,900,000 principal amount of Installment Promissory Notes; and

Manufacturers will issue and sell, and Columbia will purchase at par, from time to time as required prior to March 31, 1956, not to exceed 90,000 shares of Manufacturers' common stock, $50 par value; and thereafter Manufacturers will issue and sell, and Columbia will purchase at the principal amount thereof, from time to time as required prior to March 31, 1956, not to exceed $5,500,000 principal amount of Installment Promissory Notes.

The aforesaid notes will mature in equal annual installments on February 15 of the years 1957 through 1981; and they will bear interest at the rate of 3 percent per annum, payable semi-annually, subject to adjustment, as of the date of Columbia's next issue of debentures under the Indenture dated as of June 1, 1950, between Columbia and Guaranty Trust Company of New York, Trustee, to an interest rate equal to the coupon rate which will be borne by said issue.

The issue and sale by Cumberland of its installment notes have been authorized by the Public Service Commission of West Virginia, in which state Cumberland is organized and doing business; and the issue and sale by Manufacturers of its common stock and installment notes have been authorized by The Public Utility Commission of Pennsylvania, in which state Manufacturers is organized and doing business.

Various transactions proposed in said joint application-declaration have heretofore been authorized by this Commission's orders entered herein on May 12 and June 17, 1955. Other transactions proposed therein await authorization from state commissions, which have not yet issued the requisite orders.

Due notice having been given of the filing of said joint application-declaration, and a hearing not having been requested of or ordered by the Commission; and the Commission finding, with respect to the transactions specifically described herein, that the applicable provisions of the act and the rules promulgated thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that the joint application-declaration, as amended, be granted and permitted to become effective, forthwith, to the extent of such proposed transactions:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said joint application-declaration, as amended, with respect to the transactions specifically described above be, and hereby is, granted and permitted to become effective forthwith, subject to the conditions prescribed in Rule U-24.

It is further ordered, That jurisdiction be, and hereby is, continued with respect to the remaining transactions proposed in said joint application-declaration, as amended.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-5227; Filed, June 29, 1955; 8:50 a. m.]

[File No. 811-194]

SUPER-CORPORATIONS OF AMERICA TRUST SHARES, SERIES D AND SUPER-CORPORATIONS OF AMERICA DEPOSITORS, INC.

NOTICE OF APPLICATION FOR ORDER DECLARING THAT TRUST HAS CEASED TO BE AN INVESTMENT COMPANY

JUNE 24, 1955.

Notice is hereby given that Super-Corporations of America Depositors, Inc. ("Depositor") has filed an application, pursuant to section 8 (f) of the act for an order declaring that Super-Corporations of America Trust Shares, Series D ("Trust") has ceased to be an investment company within the meaning of the act.

The application makes the following representations:

The Trust was created by a Trust Indenture, dated January 1, 1931, by and

[1] See F. R. Doc. 55-5525, Title 12, Chapter II, Part 270, in the Rules and Regulations section, *supra.*

between the Depositor and The Hanover Bank, New York, N. Y., ("Trustee") as Trustee. The Trust is registered under the act as a unit investment trust.

The Trust terminated by its terms on December 31, 1948, at which time there were outstanding Certificates representing 6,500 trust shares. Liquidation of the underlying securities of the Trust was completed by the Trustee on November 30, 1949, and distributions of the proceeds of the liquidation amounting to $8.048 per share were made to the shareholders upon surrendering their certificates.

As of May 9, 1955, 6,135 shares had been surrendered; and a balance of $2,941.80 remained to pay the 365 unsurrendered shares. The funds available to pay the holders of unsurrendered shares are being held in trust for the sole benefit of such holders but are subject to applicable escheat laws.

Notice is further given that any interested person may, not later than July 11, 1955, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 55-5226; Filed, June 29, 1955; 8:50 a. m.]

UNITED STATES TARIFF COMMISSION

[List 213]

WOLLENSAK OPTICAL CO. AND PHOTOGRAPH & PRECISION OPTICAL WORKERS' UNION

RECEIPT OF APPLICATION

JUNE 27, 1955.

Application as listed below has been filed with the United States Tariff Commission for investigation under the provisions of section 336 of Tariff Act of 1930.

Name of article	Action sought	Date received	Name and address of applicants
Camera shutters and parts thereof (par. 1551, Tariff Act of 1930).	Increase in duty.	June 20, 1955	Wollensak Optical Co., 850 Hudson Ave., Rochester 21, N. Y. and Photograph & Precision Optical Workers' Union Local No. 24659 818 Hudson Ave., Rochester 5, N. Y.

The application listed above is available for public inspection at the office of the Secretary, Tariff Commission Building, Eighth and E Streets NW., Washington, D. C., and also in the New York office of the Tariff Commission located in Room 437 of the Custom House, where it may be read and copied by persons interested.

The Tariff Commission is conducting a preliminary investigation for the purpose of determining whether a formal investigation under the provisions of section 336, Tariff Act of 1930, is waranted. All interested persons having pertinent information to furnish either in favor or in opposition to the institution of a formal investigation may submit such information, in writing, to the Secretary of the Commission, furnishing 15 copies.

[SEAL] DONN N. BENT, *Secretary.*

[F. R. Doc. 55-5263; Filed, June 29, 1955; 8:56 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 27, 1955.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT-HAUL

FSA No. 30783: Imported zircon ore—Mobile, Ala., to Norton, Ala. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on zircon ore (crude zirconium silicate), carloads, from Mobile, Ala., to Norton, Ala.

Grounds for relief: Circuitous routes.

Tariff: Supplement 92 to Agent Spanınger's I. C. C. 1369.

FSA No. 30784. Fertilizer—Montgomery, Ala., to Alabama points. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on fertilizer and fertilizer materials, carloads, from Montgomery, Ala., to Dothan, Light, Malvern, Slocomb, Taylor, and Hartford, Ala.

Grounds for relief: Circuitous routes.

Tariff: Supplement 93 to Agent Spanınger's I. C. C. 1221.

FSA No. 30785: Petroleum products from Roseport, Minn. Filed by the Chicago Great Western Railway Company, for itself and other interested rail carriers. Rates on gasoline, fuel oil, naphtha, and other petroleum products, carloads, from Roseport, Minn., to specified points in Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin.

Grounds for relief: Motor-truck and market competition and circuity.

Tariff: Chicago Great Northern Railway Company tariff I. C. C. 5625.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F. R. Doc. 55-5230; Filed, June 29, 1955; 8:50 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

CATERINA MARIA PIA ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Caterina Maria Pia, Clotilde Leonilda Pia Tonoli, and Giustina Maddalena Pia. All of the above claimants reside in Omegna per Forno, Province of Novara, Italy, Claim No. 43910, Vesting Order No. 1859; all right, title, interest and claim of any kind or character whatsoever of Caterina M. Pia, Clotilde Pia Tonoli and Giustina M. Pia, and each of them, in and to a trust created under the will of Ernest Pia, deceased. Such property was in the process of administration by John Purcella, of New York, New York, Executor and Trustee, acting under the judicial supervision of the Surrogate's Court of New York County, New York, and is presently in the process of administration by his successor, the Public Administrator of the County of New York, Administrator c. t. a. of the Estate of Ernest Pia, deceased, acting under the judicial supervision of the Surrogate's Court of New York County, New York.

Executed at Washington, D. C., on June 23, 1955.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND, *Assistant Attorney General, Director, Office of Alien Property.*

[F. R. Doc. 55-5242; Filed, June 29, 1955; 8:52 a. m.]

DAVID F REUCHLIN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property and Location

David F. Reuchlin, Velperweg 62, Arnhem, The Netherlands, Claim No. 41849, Vesting Order No. 248; the amount of $497.38 in the Treasury of the United States.

Executed at Washington, D. C., on June 23, 1955.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND, *Assistant Attorney General, Director Office of Alien Property.*

[F. R. Doc. 55-5243; Filed, June 29, 1955; 8:52 a. m.]